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See Com

OLC 75-0129

21 January 1975

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Russ Rourke, White House Staff, re the
Pastore Resolution to Create a Select Committee on Intelligence

Today I called Russ Rourke to alert him to the Pastore Resolution to create a Select Committee on Intelligence. I asked if anyone there was keeping an eye on this. Rourke said not that he was aware of. I told him it could pose problems for much of the Executive Branch since it will get into everything that has anything to do with intelligence--CIA, FBI, NSA, etc. I said I didn't know if there were any constitutional issues involved but it might be worth checking. I also pointed out that Chairman John Stennis, Senate Armed Services Committee, had fought the Resolution in the Democratic Caucus but lost. Rourke asked what they can do about it and I replied the only possible thing would be to get a constitutional handle on it. I said another question is who will be on the Committee. I told Rourke that we are very concerned about the security aspects of the Committee's inquiry. I told Rourke we also are concerned about the reports under the Foreign Assistance Act to the Foreign Relations and Foreign Affairs Committees and we are trying to get things buttoned up with these two Committees. I said all this was worth Jack Marsh's attention and even further up the line. Rourke said he would brief Marsh as soon as he returns this evening. I said I would send a copy of the Pastore Resolution over to him in the morning.



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Legislative Counsel

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1 - DA File

1 - OLC Chrono

① - Select Committee file

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the CIA has been asked to play under that law.

In 1970 and 1971, White House aides asked CIA to participate in what was known as the Huston domestic intelligence plan and to provide assistance to a former agency official, E. Howard Hunt, who at the time worked for the President. Again, the question must be raised as to what White House authorization the agency was given to undertake the requested activities. Hunt's aid was cut off only when, in the words of the man who was then chief assistant to the deputy director, it appeared the agency was becoming involved in a "domestic clandestine operation."

In 1971 and 1972, according to Colby, the CIA undertook physical surveillances of five Americans including, apparently, newsman Jack Anderson, "to identify the sources of (news) leaks." This appears to complement the so-called "national security" wiretaps conducted by the FBI at the direction of the Nixon White House from 1969 to 1971. Again, the agency and the White House must make clear the authority under which the CIA conducted such operations.

In March 1974, Colby "terminated the domestic intelligence collection program (begun 7 years earlier) and issued specific guidelines that any collection of counterintelligence information on Americans would only take place abroad and would be initiated only in response to requests from the FBI. . . ." Was this at White House direction? And if not, could a future President reverse such a policy?

The FBI situation is slightly different. There is no information as to how or why former FBI Director J. Edgar Hoover began collecting politically-tantalizing material about congressmen and other public figures. One point is clear, however—he frequently used the information to titillate Presidents, and apparently no Chief Executive or White House aide ever told him to stop. When the so-called "national security" FBI wiretaps were operating, Hoover regularly sent social and political gossip picked up from overheard conversations to Nixon chief of staff, H. R. Haldeman. No objection or order to stop ever came back from the Oval Office.

One other presidential role in these areas needs exploration. Were agency directors ordered by the White House to cover up certain activities when called before congressional committees? Former CIA Director Helms, for example, when questioned by the Senate Foreign Relations Committee in February 1973, was asked directly about CIA participation in a White House plan in 1969 or 1970 to coordinate domestic intelligence activities. Helms said he could not recall—though he knew full well of his activities in 1970 Huston plan discussions. Last week he told senators he misunderstood the question. At a May 1973 hearing, Helms told senators he had no idea that Hunt, prior to public mention of the Ellsberg break in, "was going to be involved in any domestic activity." Of course, he did—that was why aid to Hunt stopped. Former President Nixon and his aides kept a close watch over any congressional testimony that could implicate them or their assistants in Watergate. Was Helms told to mislead?

If current congressional efforts to harness the intelligence community break up as a result of lack of White House cooperation, additional allegations of past wrongdoings are bound to be made because the climate both inside and outside the secret security services has changed. Strong internal agency leadership has gone. And on Capitol Hill, the old staunch defenders of intelligence activities are either gone or powerless.

For those interested in protecting the legitimate functions of the intelligence community, the future looks grim—indeed black if the Ford White House fails to see that far more is needed than a narrow blue-ribbon commission studying a very narrow set of allegations.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield for 2 minutes?

Mr. PASTORE. I yield.

JOINT REFERRAL OF CERTAIN COMMUNICATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication from the Federal Energy Administration transmitting a study under Public Law 93-391, be referred jointly to the Committees on Interior and Insular Affairs, Public Works, Commerce and Finance, and that a second communication received this day from the Council on Environmental Quality on Land Use, prepared as a part of its annual report, be referred jointly to the Committees on Interior and Insular Affairs, Public Works, Commerce, Agriculture and Forestry.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON COMMERCE TO FILE REPORTS UNTIL MIDNIGHT TONIGHT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to file reports until midnight tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE TO STUDY GOVERNMENTAL INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 21) to establish a Select Committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous order, the Senate will now proceed to vote on the resolution, as amended. On this question the yeas and nays have been ordered, and clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. YOUNG (after having voted in the negative). On this vote I have a pair with the junior Senator from Washington (Mr. JACKSON). If he were present, he would vote "Yea." If I were permitted to vote, I would vote "Nay." I therefore withdraw my vote.

Mr. GRIFFIN (after having voted in the affirmative). On this vote I have a pair with the Senator from Ohio (Mr. TAFT). If he were present, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. INOUE) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. McCLURE), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

I further announce that the Senator from Ohio (Mr. TAFT) is absent to attend a funeral.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. MATHIAS) would each vote "yea."

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—82

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|-----------------|-----------------|-------------|
| Abourezk | Eastland | Metcalf |
| Allen | Fannin | Mondale |
| Baker | Fong | Montoya |
| Bartlett | Ford | Morgan |
| Bayh | Garn | Moss |
| Beall | Glenn | Muskie |
| Bellmon | Goldwater | Nelson |
| Bentsen | Gravel | Nunn |
| Biden | Hansen | Packwood |
| Brock | Hart, Gary W. | Pastore |
| Brooke | Hart, Philip A. | Pearson |
| Buckley | Haskell | Percy |
| Bumpers | Hatfield | Proxmire |
| Burdick | Hathaway | Randolph |
| Byrd | Hollings | Ribicoff |
| Harry F., Jr. | Hruska | Roth |
| Byrd, Robert C. | Humphrey | Schweiker |
| Cannon | Johnston | Scott, Hugh |
| Case | Kennedy | Sparkman |
| Chiles | Laxalt | Stennis |
| Church | Leahy | Stevens |
| Clark | Long | Stevenson |
| Cranston | Magnuson | Stone |
| Culver | Mansfield | Symington |
| Curtis | McClellan | Tower |
| Dole | McGee | Welcker |
| Domenici | McGovern | Williams |
| Eagleton | McIntyre | |

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do I agree to the criticism that has been made concerning our existing committees. I know that our colleagues on these committees have done their utmost to carry out the trust of the Senate.

Because the attacks on the intelligence community persist, and because part of that attack is directed to the existing committees, I am supporting Senate Resolution 21 as a way to clear the air and set the record.

When the distinguished senior Senator from Arkansas was chairman of the Permanent Investigations Subcommittee, I believe he established the procedure of having closed hearings before open hearings were held. If I remember correctly, the distinguished Senator from Arkansas established this procedure to protect both his subcommittee and witnesses from unnecessary embarrassment.

It is my hope that the Senate select committee will proceed in a careful and deliberate manner. I believe the committee's work, at least initially, should be in camera.

Most of the Senators and staff, who are going to serve on the committee, are not thoroughly familiar with the organization and functions of the intelligence community. Before any decision on open hearings is made, I would hope the members and staff would have ample opportunity to do some homework.

The Senators and staff who serve on the select committee are going to have knowledge of a lot of matters which, if improperly handled, can cause our Nation harm.

It is important that the select committee establish sensible rules in dealing with the intelligence community. In other words, let us get the information we need to do the job but no more.

There is a reason over and above security considerations for the select committee to hold its meetings in camera: The basic American idea of protecting professional and personal reputations unless unlawful or unethical acts are involved.

Although Senate Resolution 21 does not specifically make this point, I believe the work of the select committee should have as its focus the National Security Act of 1947. It is that act and the directives issued under its provisions which have created the intelligence community as we know it today.

Using the act of 1947 as a frame of reference, I believe the select committee should have two prime objectives:

First, to determine whether or not the act of 1947 needs revision.

Second, to determine whether or not there have been illegal activities within the intelligence community.

If there have been illegal activities, then I believe the committee must determine whether these illegal activities constitute a pattern or are merely aberrations.

Sometimes what may appear to be an illegal activity may turn out to be something quite different.

Ultimately, the select committee will make its findings and recommendations known to the Senate. It would be a tragedy for the Nation should this document

reflect anything but the best of the Senate.

If surgery is required, let it be performed only after the most careful diagnosis. And, if there is surgery, let us use a very sharp scalpel—not a meat ax.

Mr. DOMENICI. Mr. President, the Central Intelligence Agency is charged with conducting the kinds of intelligence activities that are absolutely essential to preserve our free and open democratic society in the real world in which we live. I say this because example after example has shown that our Nation must remain ever-vigilant against the publicly stated desires of other governments to destroy our free existence.

The charter establishing the CIA limited it to foreign intelligence gathering. Allegations have been made that the charter has been exceeded on occasion. If correct, then much of the blame for these excesses lies with the Congress for failure to discharge its duty of congressional oversight. Recognizing that our Nation must have an intelligence gathering capacity that Congress has failed in its oversight responsibility, the question becomes: Is the creation of a select committee to investigate our intelligence operations, with all its extensive press coverage and certain leaks, the wisest method to explore and correct past wrongs and prevent future abuses? I have grave doubts.

There are many possible alternatives to such a suggested select committee. One alternative that comes immediately to mind is the creation of a permanent joint committee to oversee intelligence gathering by our Nation's agencies. Such an alternative has been offered in the form of S. 327, which I have cosponsored and intend to support.

However, the realities of our current situation dictate my reluctant support of Senate Resolution 21, with the strong reservations mentioned previously and an admonition to my colleagues that we must not breach our national security by revealing matters of truly critical importance. These hearings must not be characterized by a veritable flood of leaks and publicity stunts that will permanently jeopardize the effectiveness of our intelligence operations which serve a very legitimate purpose. We must be on our guard that such legislation with a commendable purpose is not allowed, through error or excess, to undermine our country's security.

Mr. PACKWOOD. Mr. President, yesterday's Washington Post included an editorial by Walter Pincus entitled "Spies and Presidents." In speaking of the investigation before a select committee to study the Federal intelligence community, Mr. Pincus declares that:

No select Senate committee—not even a joint congressional committee—will get to the bottom of the U.S. intelligence community's problems without the full and active support of President Ford and his staff. This is because, he goes on to say "The inquiry into intelligence activities must inevitably find out what past Presidents authorized the agencies to do."

Because of its particular relevance to the bill we will vote on today, I am bringing this article to the attention of my

colleagues. Mr. President, I ask unanimous consent that the text of Mr. Pincus' editorial be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

"SPIES" AND PRESIDENTS

(By Walter Pincus)

No select Senate committee—not even a joint congressional committee—will get to the bottom of the U.S. intelligence community's problems without the full and active support of President Ford and his staff. The reason is simple: such an inquiry must inevitably end up trying to find out what past Presidents and their staffs authorized these agencies to do; what formal groups, such as the 40 Committee, approved; and what steps, if any, the White House ever took to stop abuses of authority or projects that were illegal on their face.

Current newspaper allegations about the Central Intelligence Agency's domestic activities and the CIA partial confirmation plus admission that the Federal Bureau of Investigation has collected files on members of Congress illustrate the point.

Former CIA Director Richard Helms tied the start of that agency's domestic activities in the late 1960s to "the express concern of the President" (Lyndon Johnson), although he did not detail how this "concern" was transmitted to him. The present CIA Director, William Colby, told a Senate subcommittee that, under Helms, the agency on Aug. 15, 1967 established a unit within its counterintelligence department "to look into the possibility of foreign links to American dissident elements." Two weeks later, Colby went on, the executive director of the President's National Advisory Commission on Civil Disorder asked how the CIA might assist that inquiry.

In setting up the commission, President Johnson's executive order had called upon all government agencies to cooperate. Colby never stated, in his prepared text, why or under what authority Helms had established the unit prior to receipt of the commission's request for assistance. Colby did add, however, that later the same year "the CIA activity became part of an interagency program, in support of the national commission (on disorder), among others."

What that program was and who the "others" were who received its output were not spelled out. The only known group established at that time was one intended to work out a plan for handling disorders in Washington. Former participants on that interagency panel from the Pentagon and Justice Department don't remember CIA having been a party. Colby's later disclosure—that at this time the agency's Office of Security "inserted 10 agents into dissident organizations operating in the Washington, D.C. area . . . to gather information relating to plans for demonstrations . . . that might endanger CIA personnel, facilities and information"—parallels what this interagency group did. Whatever the facts were, only information from the White House tracing establishment of such a group could shed light on how the CIA became a participant.

In 1969, the CIA was asked by the White House to undertake surveillance of the President's brother, Donald Nixon, who, according to documents from the House impeachment inquiry, was moving to Las Vegas where it was feared he "would come into contact with criminal elements." The agency refused, but the Secret Service Act, which requires government agencies to cooperate in the protection of the President and his family, may have been the source of other such requests. Only the White House can disclose what role

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NAYS—4

Helms
Scott,
William L.Talmadge
ThurmondPRESENT AND GIVING LIVE PAIRS, AS
PREVIOUSLY RECORDED—2Young, against
Griffin, for

NOT VOTING—11

Hartke
Huddleston
Inouye
JacksonJavits
Mathias
McClure
Pell
Stafford
Taft
Turney

So the resolution (S. Res. 21) was agreed to, as follows:

S. RES. 21

Resolved, To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities and of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government or by any persons, acting individually or in combination with others, with respect to any intelligence activity carried out by or on behalf of the Federal Government; be it further

Resolved, That (a) there is hereby established a select committee of the Senate which may be called, for convenience of expression, the Select Committee To Study Governmental Operations With Respect To Intelligence Activities to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency or by any persons, acting either individually or in combination with others, in carrying out any intelligence or surveillance activities by or on behalf of any agency of the Federal Government.

(b) The select committee created by this resolution shall consist of eleven members of the Senate, six to be appointed by the President of the Senate from the majority members of the Senate upon the recommendations of the majority leader of the Senate, and five minority members of the Senate to be appointed by the President of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(c) The majority members of the committee shall select a chairman and the minority members shall select a vice chairman and the committee shall adopt rules and procedures to govern its proceedings. The vice chairman shall preside over meetings of the select committee during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the select committee shall constitute a quorum for a transaction of business, but the select committee may affix a lesser number as a quorum for the purpose of taking testimony or depositions.

Sec. 2. The select committee is authorized and directed to do everything necessary or appropriate to make the investigations and study specified in subsection (a) of the first section. Without abridging in any way the authority conferred upon the select committee by the preceding sentence, the Senate further expressly authorizes and directs the select committee to make a complete investigation and study of the activities of any agency or of any and all persons or groups of persons or organizations of any

kind which have any tendency to reveal the full facts with respect to the following matters or questions:

(1) Whether the Central Intelligence Agency has conducted an illegal domestic intelligence operation in the United States.

(2) The conduct of domestic intelligence or counterintelligence operations against United States citizens by the Federal Bureau of Investigation or any other Federal agency.

(3) The origin and disposition of the so-called Huston Plan to apply United States intelligence agency capabilities against individuals or organizations within the United States.

(4) The extent to which the Federal Bureau of Investigation, the Central Intelligence Agency, and other Federal law enforcement or intelligence agencies coordinate their respective activities, any agreements which govern that coordination, and the extent to which a lack of coordination has contributed to activities or actions which are illegal, improper, inefficient, unethical, or contrary to the intent of Congress.

(5) The extent to which the operation of domestic intelligence or counterintelligence activities and the operation of any other activities within the United States by the Central Intelligence Agency conforms to the legislative charter of that Agency and the intent of the Congress.

(6) The past and present interpretation by the Director of Central Intelligence of the responsibility to protect intelligence sources and methods as it relates to the provision in section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3)) that "... the agency shall have no police, subpoena, law enforcement powers, or internal security functions. . . ."

(7) Nature and extent of executive branch oversight of all United States intelligence activities.

(8) The need for specific legislative authority to govern the operations of any intelligence agencies of the Federal Government now existing without that explicit statutory authority, including but not limited to agencies such as the Defense Intelligence Agency and the National Security Agency.

The nature and extent to which Federal agencies cooperate and exchange intelligence information and the adequacy of any regulations or statutes which govern such cooperation and exchange of intelligence information.

(9) The extent to which United States intelligence agencies are governed by Executive orders, rules, or regulations either published or secret and the extent to which those Executive orders, rules, or regulations interpret, expand, or are in conflict with specific legislative authority.

(10) The violation or suspected violation of any State or Federal statute by any intelligence agency or by any person by or on behalf of any intelligence agency of the Federal Government including but not limited to surreptitious entries, surveillance, wiretaps, or eavesdropping, illegal opening of the United States mail, or the monitoring of the United States mail.

(11) The need for improved, strengthened, or consolidated oversight of United States intelligence activities by the Congress.

(12) Whether any of the existing laws of the United States are inadequate, either in their provisions or manner of enforcement, to safeguard the rights of American citizens, to improve executive and legislative control of intelligence and related activities, and to resolve uncertainties as to the authority of United States intelligence and related agencies.

(13) Whether there is unnecessary duplication of expenditure and effort in the collection and processing of intelligence information by United States agencies.

(14) The extent and necessity of overt and

covert intelligence activities in the United States and abroad.

(15) Such other related matters as the committee deems necessary in order to carry out its responsibilities under section (a).

Sec. 3. (a) To enable the select committee to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the select committee as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate, but it may not exceed the normal Senate salary schedules; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpoena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpoena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, or corporation, to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, document, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, or corporation to produce before the committee any books, checks, canceled checks, correspondence, communications, document, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpoena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(1) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have direct access through the agency of any members of the select committee or any of its investigatory or legal assistants designated by it or its chairman or the ranking minority member to any data, evidence, information, report, analysis, or document or papers, relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or em-

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ployee of the executive branch of the United States Government, including any department, agency, officer, or employee of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States and any department, agency, officer, or employee of the United States Government having the authority to conduct intelligence or surveillance within or outside the United States, without regard to the jurisdiction or authority of any other Senate committee, which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpenas may be issued by the select committee acting through the chairman or any other member designated by him, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18, United States Code, or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The select committee shall have authority to recommend the enactment of any new legislation or the amendment of any existing statute which it considers necessary or desirable to strengthen or clarify the national security, intelligence, or surveillance activities of the United States and to protect the rights of United States citizens with regard to those activities.

SEC. 5. The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than September 1, 1975. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the select committee shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

SEC. 6. The expenses of the select committee through September 1, 1975, under this resolution shall not exceed \$750,000 of which amount not to exceed \$100,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

SEC. 7. The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, or any information relation to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activi-

ties of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

SEC. 8. As a condition for employment as described in section 3 of this resolution, each person shall agree not to accept any honorarium, royalty or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by this committee.

SEC. 9. No employee of the select committee or any person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance as determined by the select committee. The type of security clearance to be required in the case of any such employee or person shall, within the determination of the select committee, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATOR FROM NEW HAMPSHIRE— CREDENTIALS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the motion by the Senator from Montana (Mr. MANSFIELD) to refer all credentials and papers dealing with the New Hampshire election dispute to the Committee on Rules and Administration, which the clerk will state. The time on this debate is limited to 1 hour, to be equally divided and controlled by the Senator from Montana (Mr. MANSFIELD) and the Senator from Michigan (Mr. GRIFFIN).

The Senate will be in order.

The clerk will state the motion.

The legislative clerk read as follows:

The Senator from Montana (Mr. MANSFIELD) moves that the credentials of Louis C. Wyman and John A. Durkin and all papers now on file with the Senate relating to the same be referred to the Committee on Rules and Administration for recommendations thereon.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, so that I may complete the work on the resolution providing for the select committee, on which the Senate has just expressed its approval.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Montana has the floor. May we have order in the Senate?

SELECT COMMITTEE TO STUDY GOVERNMENT INTELLIGENCE AC- TIVITIES

The Senate continued with the consideration of the resolution (S. Res. 21)

to establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities.

Mr. MANSFIELD. Mr. President, I wish to state, before proceeding with the discussions and consideration of this resolution, that insofar as the majority leader is concerned, the chairman of the Committee on Armed Services, our colleague from Mississippi (Mr. STENNIS) is owed a vote of thanks because throughout the years he has scrupulously endeavored, to the best of his ability and in line with his other responsibilities, to scrutinize all activities of intelligence agencies related to the defense community. He need not yield to any Member of this body his stance as the preeminent "watchdog" of the Congress in performing this critical oversight function. I commend JOHN STENNIS. The Senate commends JOHN STENNIS for his assiduous and conscientious work in this endeavor.

Mr. President, now that the select committee has been approved by the Senate, the minority leader and I have directed a letter to the heads of agencies and departments of Government most preeminently concerned with intelligence endeavors. The letter reads as follows:

As you may be aware, the Senate is to conduct an investigation and study of government operations with respect to intelligence activities. The scope of the investigation is set out in S. Res. 21, a copy of which has been enclosed for your information.

We are writing to request that you not destroy, remove from your possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in section 2 of S. Res. 21.

Sincerely yours,

This letter is being directed to heads of 19 separate governmental units as listed here:

JANUARY 21, 1975.

Honorable William E. Colby, Director, Central Intelligence Agency, and as Coordinator of Intelligence Activities, Washington, D.C. 20505.

Lt. Gen. Daniel O. Graham, Director, Defense Intelligence Agency, The Pentagon, Washington, D.C. 20301.

Honorable William B. Saxbe, Attorney General, Dept. of Justice, 9th and Constitution N.W., Washington, D.C. 20530.

Mr. John C. Keeney, Acting Asst. Attorney General, Criminal Div., 9th and Constitution N.W., Washington, D.C. 20530.

Mr. John R. Bartels Jr., Administrator, Drug Enforcement Administration, 1405 Eye St. N.W., Washington, D.C. 20537.

Honorable James R. Schlesinger, Secretary of Defense, Room 3E 880, The Pentagon, Washington, D.C. 20301.

Honorable Howard H. Callaway, Secretary of the Army, Room 3E 718, The Pentagon, Washington, D.C. 20310.

Hon. J. W. Middendorf, Secretary of the Navy, Room 4E 710, The Pentagon, Washington, D.C. 20350.

Hon. John L. McLucas, Secretary of the Air Force, Room 4E 871, The Pentagon, Washington, D.C. 20330.

Lt. Gen. Lew Allen Jr., Director, National Security Agency, Fort George G. Meade, Maryland 20755.

I add that the administration about the preservation of records, documents,

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therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect, the House do now adjourn.

Mr. PERCY. Mr. President, I have sent to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Illinois has the floor.

Mr. PERCY. Mr. President, a resolution is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

S. RES. 34

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Honorable John C. Kluczynski, late a Representative from the State of Illinois.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

Mr. ALLEN. Mr. President, I have no objection, and I commend the Senator on his resolution.

The PRESIDING OFFICER. The Senate will proceed to its immediate consideration.

The question is on agreeing to the resolution.

The resolution was agreed to.

The PRESIDING OFFICER. The Chair appoints the Senators from Illinois (Mr. PERCY and Mr. STEVENSON) as members of the committee required by the resolution.

Mr. PERCY. Mr. President, with a strong sense of personal sorrow, I offer this resolution on behalf of myself and my distinguished colleague, Senator STEVENSON. We deeply regret the passing of our esteemed colleague, whose services to his country, to his State, and to his community have been a matter of record for so many years. I yield to my distinguished colleague.

Mr. STEVENSON. Mr. President, I was much saddened to hear of Congressman JOHN KLUCZYNSKI's death earlier today. He has been a valued Member of the Congress of the United States and a good friend.

I join with my distinguished colleague, Senator PERCY, in offering this resolution and our condolence to all members of the Kluczynski family.

Mr. President, earlier today, Representative JOHN C. KLUCZYNSKI, the dean of Chicago's congressional delegation, died. His passing is a great loss for the people of Illinois' Fifth Congressional District, the citizens of Chicago, of Illinois, and the Nation.

Congressman KLUCZYNSKI first en-

tered the public service in an elective capacity in 1932 when he was elected to the Illinois House of Representatives. He served in that body for 16 years until 1948, when he ran successfully for the State senate. He resigned the State senate just over a year later, in December 1949, to become a candidate for the U.S. Congress. He was elected to Congress in November of 1950, and he has been in Washington serving the people of his district ever since.

Congressman KLUCZYNSKI was a Polish-American of great distinction. He cut a colorful figure in local, State, and national politics, but his work was the hard work of fostering the public interest. In the Congress he served on the House Public Works Committee and in recent years as chairman of the committee's Transportation Subcommittee's chairman, Congressman KLUCZYNSKI played a large and active role in the formation of our Nation's transportation policy, and particularly in the building of our great Interstate Highway System.

Congressman KLUCZYNSKI is to be buried Thursday in Chicago. My sympathies, and I am sure those of every Senator, go out to his widow Estelle and the entire family. We shall all mourn the loss of Congressman JOHN KLUCZYNSKI.

ORDER OF BUSINESS

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, who has control of the time?

The PRESIDING OFFICER. The Senators from Montana and Michigan.

Mr. MANSFIELD. Is time under control?

The PRESIDING OFFICER. There is 1 hour equally divided between the Senator from Montana and the Senator from Michigan.

Mr. MANSFIELD. I yield as much time as the Senator wishes.

CONTINUING AUTHORITY FOR THE COMMITTEE ON APPROPRIATIONS TO MAKE REPORTS DURING SESSIONS OF THE SENATE

Mr. McCLELLAN. Mr. President, on behalf of myself and the senior Senator from North Dakota (Mr. YOUNG) I ask unanimous consent that the Committee on Appropriations be, and it is hereby authorized during the 94th Congress, to report bills, including resolutions and joint resolutions, and to file reports during adjournments or recesses of the Senate, on appropriation bills, including resolutions and joint resolutions, together with any accompanying notices of motions to suspend rule XVI pursuant to rule XL for the purpose of offering certain amendments to such bills or resolutions or joint resolutions, which proposed amendments shall be printed.

Mr. President, this is the usual unanimous-consent request agreed to at the beginning of each session of Congress, and I ask unanimous consent accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION HONORING ROY WILKINS

Mr. HUMPHREY. Mr. President, I send to the desk a resolution.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. I yield as much time as the Senator wants.

Mr. HUMPHREY. I thank the leader. I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota presents a resolution honoring Roy Wilkins on the occasion of his being named American of the Year by the American Religious Town Hall Meeting.

Mr. HUMPHREY. Mr. President, Roy Wilkins, executive director of the NAACP, has been named "American of the Year" by the American Religious Town Hall Meeting. This is a conference of Roman Catholics, Protestants, and Jews, formed to promote tolerance and understanding among all peoples of every race and creed. They could not have chosen a better man to honor than Roy Wilkins. The Senate should take this opportunity to join in recognizing the great accomplishments of this courageous American. Accordingly, I am today introducing, for myself and Senators BENTSEN, TOWER, MANSFIELD, HUGH SCOTT, ROBERT C. BYRD, MONDALE, GRIFFIN, and GOLDWATER, a Senate resolution to honor the contributions of this distinguished American citizen to the cause of human dignity and justice.

We all know the depth of Roy Wilkins' commitment to justice, to equal opportunity for all Americans, to making the democratic process work, and to what he has called "the most radical idea of the 20th century—abolition of racial segregation." We all know what a profound mark he has made on the history of this country.

Our paths have crossed a number of times over the years of struggle for civil rights and economic opportunity for black Americans. I worked closely with Roy on the Civil Rights Act of 1957, 1960, 1964, and 1965. As chairman of the Leadership Conference on Civil Rights, he served as representative and coordinator of all the civic, labor, and church organizations committed to equal rights for all Americans. His energy, his dedication, his pragmatism, his clear vision of what had to be done, and his realistic assessment of how reform could best be accomplished, were invaluable in securing the passage of that legislation. I also have worked with Roy in the effort to assure equal opportunity for black Americans and decent living conditions for those in the inner city. He has worked as hard and long to end economic discrimination as he has to end legal and political discrimination.

I am particularly proud that the State of Minnesota can claim Roy Wilkins as a son. He grew up in Minnesota. He graduated from the University of Minnesota. He began his career as a journalist and a powerful civil rights advocate in our

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et cetera, applies as well to all agencies and subagencies concerned but not specifically singled out.

The task faced by the select committee which the Senate has just established is to examine into the intelligence activities of the U.S. Government. No more important responsibility to the people of the Nation can be assumed by Senators than membership on this committee. What is asked of them, in the name of the Senate, is to probe fully and to assess completely, to understand thoroughly and to evaluate judiciously. To the extent that the intelligence agencies have acted correctly and within the law, that must be made known. If there have been abuses, they, too, must be set forth. There can be no whitewash in this inquiry; nor is there room for a vendetta. In the end, the Senate must know what has transpired so that it may seek to close legal loopholes if there are any. In the end, we must know so that together with the House and the President, we may move to foreclose any demeaning of the basic premises of a free society.

What is at stake in the work of this committee is a resolution of doubts. What is at stake is a restoration of confidence in a large and costly and little known segment of the Federal Government. The Senate must be satisfied that the intelligence community is doing the people's business, to the end that the Nation may be with assurance so advised. The Senate must be persuaded that what is being done in the name of security under a cloak of obscurity is the people's business, as defined, not by employees of a Government agency, but the people's business as defined by the Constitution and the laws duly enacted thereunder.

The committee is called on, furthermore, to elucidate for the Senate the relevance of the intelligence community as it now operates to the Nation's contemporary needs. We need to know what may be required, today, not what might have seemed necessary yesterday.

The fact that a commission is looking into the CIA is all to the good; the responsibility of that group is to the President who created it. Its existence in no way relieves us of our responsibilities. It is appropriate and proper at any time that the Senate so determines, to inquire into any agency and, as necessary, to seek to clarify and redefine its functions and the scope of its activities.

One aspect of the impending inquiry concerns covert activities. These activities have been acquiesced in, to say the least, by the Congress for a long time. No one should be surprised or appalled, therefore, to discover their existence a quarter of a century later. In recent years, however, the extent and necessity for them have come under question. Who sets the policy and why? What obtuse intrusions may there have been by these activities into the President's conduct of foreign affairs? What indifference, if any, to the laws passed by the Congress? What damage, if any, to the demeanor of the Nation? What interference in the personal lives of Americans and by whose authority and under what guidelines? What public funds have been committed and to what end? What proliferation of

activities and how much overlap and duplication?

It used to be fashionable, Mr. President, for members of Congress to say that insofar as the intelligence agencies were concerned, the less they knew about such questions, the better. Well, in my judgment, it is about time that that attitude went out of fashion. It is time for the Senate to take the trouble and, yes, the risks of knowing more rather than less. We have a duty, individually, and collectively, to know what legislation enacted by Congress and paid for by appropriations of the people's money has spawned in practice in the name of the United States. The Congress needs to recognize, to accept and to discharge with care its coequal responsibility with the Presidency in these matters.

The Senate has begun to address itself to these questions by approving the creation of this select committee. There is a need to understand not only the present intelligence requirements of the United States but also what systems or procedures for oversight and accountability may be required to keep them within bounds set by the Constitution, the President and the elected Representatives of the people in Congress.

Wisely, I believe, a special committee for handling the investigation has been established by this action today. The scope of inquiry is far larger than can come within the purview of any single committee. Hopefully, within the select committee, the pieces—all of the pieces—can be fitted together. May I say that insofar as the Senate is concerned, I think this action expresses the expectation that the matter will be concentrated in this one committee. In my judgment, it would be most inappropriate for a bevy of studies of intelligence to proceed simultaneously in several others.

May I say, Mr. President, that this in no way conflicts with the legislative jurisdiction of the legislative committees so charged.

The select committee is equipped with a bipartisan membership. The Senators who will be selected for service on this committee are no different than the rest of us. They are not tied with a blue ribbon or a white or pink ribbon. There is no higher or lower order of patriotism in the Senate. There are no first- and second-class Senators. Those who will serve are men of competence, understanding, and decency. They will do the job which the circumstances and the Senate require of them.

The committee has been equipped with full authority to study, to hold hearings and to investigate all activities—foreign and domestic—of the intelligence agencies of the Federal Government. In the pursuit of that mandate, I have every confidence that the committee will act with discretion, with restraint and with a high sense of national responsibility. There is no cause and inclination to pursue this matter as a Roman circus or a TV spectacular. There is only the need to see to the sober discharge of very sober responsibilities.

How the committee proceeds is largely up to the members of the committee. They have the authority to make their

rules and to define their procedures, and that would include the question of when to close or open the door to the use of television. As I have indicated, I would not anticipate any great requirements for the latter at this time. Most emphatically, I would express the hope, too, that committee staff would be selected with as much concern for discretion as for other qualifications. What comes to the public from this committee and when, ought to be solely—I stress the word "solely"—determined by the members of the committee.

The Senate is entrusting this committee with its deepest confidence. I know that that trust is secure and that the results of the inquiry will reflect the highest credit on this institution. I submit to the Chair the names of those assigned to the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities and ask that they be read and I do so on behalf of the distinguished Republican leader and myself.

The PRESIDING OFFICER. The clerk will read the nominations.

The assistant legislative clerk read as follows:

Senators Church, Hart of Michigan, Mondale, Huddleston, Morgan, and Hart of Colorado.

Mr. MANSFIELD. The Republicans also.

The assistant legislative clerk read as follows:

Senators Tower, Baker, Goldwater, Mathias, and Schweiker.

SENATOR FROM NEW HAMPSHIRE— CREDENTIALS

The Senate continued with the consideration of the credentials of the claimants to be U.S. Senator from the State of New Hampshire.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, are we back on the regular order of business?

The PRESIDING OFFICER. We are back on the Mansfield motion.

The Senator from Illinois is recognized.

RESOLUTION RELATIVE TO THE DEATH OF REPRESENTATIVE JOHN C. KLUCZYNSKI, OF ILLINOIS

Mr. PERCY. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 97.

The PRESIDING OFFICER. The clerk will read the message from the House.

The assistant legislative clerk read as follows:

Resolved, That the House has heard with profound sorrow of the death of the Honorable John C. Kluczynski, a Representative from the State of Illinois.

Resolved, That a committee of 65 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection

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least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income. If the adjusted sales price of their residence is \$20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds \$20,000, an election may be made to exclude part of the gain based on a ratio of \$20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer gain on the sale of his personal residence within 1 year before or 1 year after he buys and occupies another residence the cost of which equals or exceeds the sale price of the old residence. Time is allowed if (1) you own a new residence or (2) you were in the U.S. Armed Forces. 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received income in excess of \$600 in any 10 calendar years before 1974, and (c) have certain types of income—"retirement income". Five types of income—annuities, interest, dividends, and gross rents from a schedule E, Part II, farm (b)—the retirement income credit. The credit is 15% of the lesser of:

1. A taxpayer's qualifying retirement income, or
2. \$1,524 (\$2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the \$1,524 figure by the amount of earned income in excess of \$900. For persons at least 62 years of age but less than 72, this amount is reduced by one-half of the earned income in excess of \$1,200 up to \$1,700, plus the total amount over \$1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer who has requested that IRS compute his tax and he answers the questions for columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 40.

NUREMBERG TRIALS ONLY REINFORCE NEED FOR THE ADOPTION OF THE GENOCIDE TREATY

Mr. PROXMIER. Mr. President, one of the worst offenders of the crime of genocide before the action was outlawed by the United Nations was the Nazi's extermination of 6 million Jews, 2½ million Poles, hundreds of thousands of Czechs, Serbs, and Russians.

When the Nuremberg trials convened it was decided that the Nazis could not be punished for acts of genocide committed prior to 1939. The Nuremberg tribunal which tried war criminals for crimes against humanity refused to consider outrages occurring before the war on the grounds that no international law

was violated. Had the Genocide Convention been in existence two decades ago those who perpetuated atrocities between 1933 and 1939 could have been brought to justice.

This situation displays the same kind of inaction that was brought against those responsible for the Armenian massacres even though Turkey and her German allies were defeated in World War I. There is evidence on the record that Hitler duly noted this fact when he prepared his program of exterminations. Documents introduced at the Nuremberg trials contain the following statement made by Hitler in August 1939 just before the invasion of Poland:

What the weak western European civilization thinks about me does not matter. . . . I have sent to the East only my Death's head units with the order to kill without pity or mercy all men, women, and children of the Polish race and language. Only in such a way will we win the vital space we need. Who still talks nowadays of the extermination of the Armenians?

It is quite apparent from the previous statement that Hitler interpreted the world's inaction on the Armenian massacres as tacit consent to do as he pleased. Why should the world stop him when they have always failed in the past to show concern?

The Genocide Treaty is the document that displays the world's outrage and concern over acts of Genocide. Yet the United States has refused to sign this important document. In the interest of further international peace and safety, in the hopes of eliminating all future crimes against humanity, I urge my colleagues to join me in support of the Genocide Convention accord.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for the conclusion of morning business having arrived, morning business is closed.

SELECT COMMITTEE TO STUDY GOVERNMENTAL INTELLIGENCE-GATHERING ACTIVITIES

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to the consideration of Senate Resolution 21, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 21) to establish a Select Committee of the Senate to conduct an investigation and study with respect to intelligence activities carried out by or on behalf of the Federal Government.

The PRESIDING OFFICER. The time for debate on this resolution is limited to 2 hours, to be equally divided between and controlled by the majority and minority leaders or their designees, with the vote to occur at 3 p.m.

Mr. MANSFIELD. Mr. President, I yield my time to the distinguished senior Senator from Rhode Island (Mr. PASTORE).

I suggest the absence of a quorum, with the time to be charged against both sides.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. Mr. President, I ask that the time on this side be yielded to the control of the Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Miss Pam Turner, of my staff, have the privilege of the floor during the consideration of Senate Resolution 21 and all amendments thereto.

The PRESIDING OFFICER (Mr. GARY W. HART). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. TOWER. To be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. What is the pending business?

The PRESIDING OFFICER. The pending business is Senate Resolution No. 21.

Mr. PASTORE. Mr. President and colleagues, I am not going to belabor this measure this morning by an extended explanation. As a matter of fact, I did explain it last week and I think that what we are trying to achieve is quite well understood by the Members of the Senate.

I do not think we are going to have any difficulty with this resolution. As a matter of fact, it is generally conceded, to be necessary, and I point up the fact that, by a vote of 45 to 7, it was approved by the Democratic Conference.

As I understand it, the minority leader has stated today his selection of members of the select committee, so I construe from that that the other side is more or less amenable to this resolution.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. PASTORE. Unless it was a gesture of futility.

Mr. TOWER. It was acceptance of the inevitable, I think.

Mr. PASTORE. Mr. President, I wish to make it abundantly clear at the outset that the FBI, the CIA, and Military Intelligence are absolutely necessary to the security and the survival of this

great Republic. Anyone who questions for a moment, anyone who should try or anyone who should even begin to imagine that the Senator from Rhode Island is trying to do anything to disrupt or to injure in any way these fine agencies, should immediately disabuse his mind of it.

I have been connected for a long time with the workings of these agencies. I realize why they were instituted in the first place. We could not survive as a decent society without the FBI. We could never survive as a great nation in this troubled world, this sensitive world, without a CIA or military intelligence. So I wish to make it abundantly clear, Mr. President, that what we are trying to do is find out the abuses of the past and also of the present, to find out how it all started, how far it went, to remedy these abuses and make sure that in the future they will not happen; and in the final analysis, ultimately, that the confidence of the people will be reaffirmed and strengthened in their appreciation and their consideration, as to the essentiality of these great arms of Government.

Mr. President, having said that, I must in all fairness say that there have been some very serious abuses. I am not going to debate them this morning. As a matter of fact, our newspaper headlines have been replete with a dissertation of what they are. There have been charges and countercharges. There have been those who have exaggerated some of the wrongs; there are those who have minimized some the wrongs. Because the supervision on the part of Congress is spread throughout several committees, each of which has jurisdiction in its own way—the Committee on Foreign Relations is absolutely interested in intelligence abroad; the Committee on the Armed Services is absolutely interested in military intelligence; the Joint Committee on Atomic Energy is absolutely interested in where our nuclear weapons are and now well they are being protected and, vis-a-vis with our adversaries, what they have and what we must have—there is no question at all about the essentiality.

The important thing here is to restore public confidence so that these agencies, in the final analysis, will be responsive. That is what this is all about. This is not to challenge the chairman of one committee or to challenge the chairman of another committee. We are not here to rebuke any Member of Congress for what supervision he gave or did not give. That is not the question this morning. What we are trying to do here is create a select committee consisting of 11 members—6 from the majority, 5 from the minority. I know it is not going to be partisan. There is not a Member of the Senate who does not put his country before his party, or even, indeed, his own interest. If it were otherwise, that would be a blot on this great establishment.

What do we do by this resolution? We create a committee of 11 members. The names have already been suggested by the minority leader of those on the part of the minority party. We know who

they are. I am sure they will all render fine service.

We do not know yet who the members are on the majority side. I know I am not one of them; I do not want to be one of them. I made that pledge at the time that I introduced this resolution, that I was not doing it for any selfish reason; I was doing it because I thought it needed to be done.

Mr. President, having said that, I have nothing further. I am perfectly willing to answer any questions. It is a very simple resolution. It is all spelled out. I understand there are going to be two amendments. I am amenable to both amendments, with the exception that on the Tower amendment, I hope we can clarify one statement at the end, where it says:

The type of security clearance to be required in the case of any such employee or person shall be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.

I think we ought to nail that down to be within the determination of the committee itself.

I should like to add some language in there, in the last sentence: "within the determination made by the committee itself."

Mr. TOWER. Mr. President, I wonder if I might visit with the distinguished Senator from Rhode Island.

Mr. PASTORE. When the proper time comes, I do not think we are too much in disagreement. I repeat what I said last week when I was questioned by the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services: The jurisdiction of each committee as it now stands will continue. There is nothing in this resolution that changes that one iota. I suppose that the authorization bills, when they come up, will be referred to the Committee on Armed Services, there is no question at all about that. I suppose before deciding the authorization the chairman will conduct some kind of hearings, not competitive to the select committee; it could be consonant with it, I am not opposed to that.

As a matter of fact, let us face it: We are all here trying to do the right thing. Let us do it. That is about the size of it.

Now, Mr. President, I have here a statement by Senator HUDDLESTON who asked me to have it inserted in the Record, and I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUDDLESTON

I am pleased to support Senate Resolution 21, which would establish a select committee on intelligence activities.

I believe the creation of such a committee is essential at this time.

I believe the committee as proposed in the resolution before us will meet the needs of the Senate and our Nation in terms of structure, representation and mandate.

A committee such as we are about to create must touch upon the various ages, views, geographical areas and philosophies which are a part of the Senate and our nation-at-large.

To structure it otherwise would diminish

not only the acceptance of any findings and recommendations but also the possibility of reconciling contrasting views and theories which must be accommodated.

Ultimately, the report of this select committee must be widely accepted by many elements of the American people. Otherwise, efforts to correct past improprieties and restore confidence in our government's ability to conduct in an appropriate manner the very sensitive and important intelligence function, will falter.

To fail to create a broadly based committee would in the end be a disservice to ourselves, the Senate, our country and the American people.

Testimony already taken in the Congress strongly indicates that there have been abuses and misuses of authority within the Central Intelligence Agency. Allegations of other improprieties remain unanswered. A virtual floodgate of questions and charges has been opened, engulfing our intelligence community in suspicion and uncertainty. While some of this may have been more sensation than substance, the facts remain that both damaging testimony and allegations of serious misconduct are before us and that they have not been rebutted to the satisfaction of most members of Congress or of the American people.

The floodgate cannot and should not be closed; the questions raised must be answered; the faith of the people in this most sensitive area of their government must be restored.

If an agency has overstepped its authority, if it has violated the rights of citizens whom it is supposed to serve, if it has been involved in illegal activities, if it has been utilized in derogation of its public trust, then these matters must be fully investigated. Corrective steps must be taken.

There was an earlier time in this Nation when the agencies in question—born in a turbulent area of violent crime half a century ago, or in the aftermath of war 25 years later—enjoyed a very different image. They were looked upon as guardians of the Nation and protectors of law-abiding citizens. But, like so many of this country's institutions in recent years, they have fallen in esteem. The intelligence community has lost its glitter. The FBI hero of the 1930's has been replaced in the public eye by a much more dubious character.

Thus, the need for a full investigation of the tide of current charges goes beyond the obvious requirements of discipline within the government; it goes to a restoration of confidence in a segment of government that, more than any other, must hold the public's confidence.

No nation can gamble with its security. Indeed, the guarantee of that security is perhaps the most fundamental of all governmental responsibilities. Without it, all else can quickly fade.

National security arrangements, defense and foreign policy strategies, and decisions regarding a host of other issues rely upon intelligence. In fact, there are few who would argue that we could do without intelligence gathering activities—especially in what appears to be an increasingly complex and uncertain world.

Furthermore, the very nature of such activities requires that they be closely held and carried out with a certain degree of secretiveness and confidentiality.

But, the agencies involved in such activities, like Caesar's wife, must be above reproach—not just because of their special status and charge but also because actions which involve them in suspicion and question tend to impair if not destroy their ability to function.

There are those in this body who have followed closely the activities of the CIA and other agencies with intelligence responsibil-

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ities—the Defense Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, and the Secret Service. For that reason, we should certainly make the best use of these persons; we should build upon their knowledge and experience.

At the same time, I believe we could benefit from new and fresh perspectives which could bring to such review an inquiring approach which might not only develop new ideas but also do much to insure a positive public response to the ultimate findings and recommendations.

I do, consequently, support establishment of a special committee to review intelligence operations in this country. I also think, however, that our intent and determination to insure a broadly representative committee must be made clear.

To accommodate the representation of the various views, I proposed in the Democratic Conference that we consider an 11-member body, rather than a smaller one. While this is an admittedly rather large committee, in this particular case, I believe that it is required. Many Committees have some jurisdictional claim over intelligence activities. Interest and concern over this matter goes far beyond the jurisdictional bounds of committees, encompassing, I would imagine, every member of the Senate. Views on the subject vary widely.

Furthermore, I believe that the special committee must have broad authority, as the resolution contains. It must be empowered not only to investigate possible illegal activities and abuses in the intelligence community, but also to review the mandates of the agencies concerned; to study the role of intelligence in today's world and to make recommendations regarding the type of structure which can best meet the intelligence objectives which are deemed necessary and proper.

Some may perceive the proposal before us as fraught with implications of sensationalism and headline hunting—an approach which we clearly cannot afford and which we would be irresponsible to permit. Our determination on that point, too, should be made clear. But in this year—so soon after Watergate—we cannot leave in doubt the operations and activities of agencies involved in such sensitive and significant endeavors. We must instead place our important intelligence-gathering activities on a sound and viable basis. In this case, skeletons in the closet are likely to haunt us not only at home but also abroad, not only on security issues but also in domestic politics. They must be laid to rest.

The alternative is to let matters ride, to permit a series of well-intentioned but overlapping investigations proceed, to divide efforts at a time when prompt and comprehensive action is needed.

Thus, the preferable course, it seems to me is the creation of a special committee (1) broadly representative of the various Congressional concerns on intelligence (2) dedicated to a thorough investigation of questioned activities and current intelligence operations and a reexamination of the role of intelligence operations in our society, and (3) charged with the responsibility of making recommendations to the Senate as expeditiously as possible regarding both necessary corrective actions and the future structure, authority and relationships within the intelligence community.

I believe Senate Resolution 21 will accomplish this and that adoption of it would be a right move in the right direction.

Mr. PASTORE. I now yield to my distinguished colleagues from California.

Mr. CRANSTON. I thank the Senator very much for yielding.

I want first to thank the Senator from Rhode Island for his magnificent leadership in this matter. Without his help

we would not have accomplished as much as we have so swiftly in this very important matter. The efforts of the Senator from Rhode Island have manifested a quality of greatness.

I also want to thank the major leader (Mr. MANSFIELD), Senator MATHIAS on the minority side, Senator BAKER, Senator WEICKER, and others who did so much of the vitally important spade work which has brought us to this point.

I have been involved in this matter since 1971, when I questioned Senator Ellender, the then chairman of the Committee on Appropriations, on the Senate floor about expenditures for intelligence operations. I joined in earlier resolutions prior to the time that I helped in the support that has been brought together behind the Pastore resolution.

I agree, of course, with the Senator from Rhode Island that we need an effective intelligence operation, we need it operating under clear and wise ground rules and under firm control by the Executive and Congress. I have been critical of the CIA and other intelligence agencies for many of the things they have done that they should not have done. There have been serious abuses. But there also have been great accomplishments. There have been deeds done by courageous and dedicated men and women, many of whom have risked their lives, and some of whom have lost their lives, in service of their country.

I would just make these points for the legislative history and for consideration by the committee that will be carrying on this activity:

First, if anyone needs reminding, there have been a series of revelations over the past decade and a half that point not only to the internal shortcomings of intelligence agencies in carrying out their assigned tasks, not only the lack of coordination between their operations and national policy as declared by the President and Congress, not only to the failure of these agencies to communicate with one another and with the President and the standing committees of Congress—but, also, and more alarming—to their power to subvert the Constitution and threaten freedom here at home while damaging—in the majority leader's words—"the good name of the United States" abroad.

Further, it must be admitted, their power was often misused at the direction of higher authority in the executive branch—or with the acquiescence of higher authorities—and with a knowing wink or willful ignorance on the part of many members of Congress.

Second, But the problem goes beyond the CIA, the FBI, and other intelligence agencies. It goes beyond foreign relations. It goes beyond civil liberties at home.

Here the great issues of national security and individual liberty are inextricably linked. We have to get some perspective on ourselves, on our origins, on our immediate past, and on our future—as we proceed from the aftermath of the Cold War to what appears to be an era of interdependence in a multipolar world.

The fundamental problem—as we approach the bicentennial—is to restore constitutional government in the United

States. There has to be accountability and responsibility. The intelligence agencies must be adapted to the needs of a constitutional democracy in our time—or they must be eliminated.

We cannot eliminate them so we have to do what is necessary to keep them under control. That is a job for Congress.

Third, Therefore, as the Senate proceeds to establish the select committee, it is important to identify three important missions of this committee:

First of all, it is charged with finding the facts in cases of alleged wrongdoing. Thus, the Pastore resolution empowers the select committee to "conduct an investigation . . . of the extent, if any, to which illegal, improper, or unethical activities" have been engaged in by the intelligence agencies of the U.S. Government. This will involve identifying individuals responsible for such activities, as well as their respective institutions and I cite paragraphs 1, 2, 3, 10 of section 2.

Second, the select committee is charged with going one step further. It is to consider the institutional changes needed in the organization of the executive branch and changes needed in congressional oversight mechanisms as well—so that these abuses of power cannot occur again I cite section 2, paragraphs 4, 5, 6, 7, 8, 9, and especially 11, 12, and 13, of Senate Resolution 21.

Finally, the select committee is directed to make a complete investigation and study of the extent and necessity of overt and covert intelligence activities in the United States and abroad. I cite section 2 of paragraph 14.

Fourth. It will be difficult for the select committee to carry out these missions—no matter how sweeping the mandate entrusted to it, no matter how great its delegated powers, and no matter how much access to secret documents and processes is guaranteed in the words of the Pastore resolution.

Just how does it investigate matters that, in their essence, depend on not being seen? How will the select committee know when it is not getting what it needs to know to get at the full facts? These questions are without easy answers.

Section 3(a), paragraph 11 of Senate Resolution 21 is of great importance. It grants the members and staff of the select committee "direct access" to any data, evidence, information, report, analysis or documents or papers" relating to the investigation in the possession of the intelligence agencies.

Despite this clause, it can be predicted that this information—in some instances—will be given up with great reluctance and, indeed, some of it already may have been destroyed.

Further, there will be a tendency for personnel of the intelligence agencies to use the classification system as a means of avoiding full testimony before the select committee. That is, they may "tell the truth" or provide the facts at the "top secret" or "secret" level, but not include information available on a given subject at a higher level of classification. Or they may cite law and executive orders and precedents and "executive priv-

ilege" as shields of justification for not telling all they know—even though they are under oath.

Fifth. This problem could be greatly alleviated if the Senate through its select committee was guaranteed the full and active support of the Ford administration in this inquiry. As Walter Pincus pointed out in Sunday's Washington Post, such an investigation must inevitably end up questioning the past policies and practices of Presidents and their staff.

Perhaps a confrontation with the White House and the bureaucracy is inevitable as the investigation proceeds. From the start, there are some powerful incentives for a cover up. The Senate should understand this reality now.

Already we see a former Director of the CIA, Mr. Helms pointing the finger of responsibility at one dead President and at another who is incapacitated—and who, so far, has managed to avoid coming into court or before a congressional committee. This same man is known to have destroyed documents bearing on his tenure as Director of the CIA.

Further, the present Director of the CIA in his recent report apparently pointed to his predecessor and previous administrations as being responsible for acts of wrongdoing. The Senate should be reminded that this same man had spent his entire career on the operations side of CIA before he became executive director and later director. Mr. Colby at one time directed the controversial and perhaps dubious Phoenix program in Vietnam, and at one time he was deputy director for operations, DDO, in the CIA—with responsibility for counterintelligence and domestic operations among others.

This investigation cannot succeed without determining the individuals responsible for illegal and improper acts—be they in the Oval Office, the National Security Council—and the 40 Committee within it—the President's Foreign Intelligence Advisory Board, the U.S. Intelligence Board, or in the individual agencies. A number of the persons involved in past actions still serve in high positions in the Government.

So while the select committees' investigation must not degenerate into a witch hunt, it cannot be a picnic, either. For here are bound to be a lot of skeletons in a lot of closets. Individuals and agencies involved in wrongdoing or questionable practices must be identified. Or else the American people will be ill served by another coverup.

Some have stated that this investigation must not be a "TV spectacular." But it must not be conducted behind closed doors, either. "Protecting the national security" arguments must not stand in the way of the American people's full understanding of this problem, and they must not stand in the way of publicly assigning responsibility for past actions. Again, the fundamental issue is accountability and responsibility under a constitutional system of government.

There is no good reason why questions of policy in the intelligence community cannot be discussed in open hearings, and all facts bared—except for the most sen-

sitive—that bear upon the matters and questions posed in Senate Resolution 21. In this regard, any classification—declassification system employed should be devised by the select committee—in cooperation with the executive branch, if possible. After all, one of the issues at stake is secrecy itself. The emphasis throughout should be on sharing the maximum amount of information with the public.

Seventh. In conclusion, several elements are required for a successful investigation and study: A continuation of aggressive investigative reporting on the part of the press, and I know that will occur; a select committee with members and staff interested in getting all the facts and sharing them with the American people to the extent possible; the full cooperation of the executive agencies involved; sources and witnesses who are assured of proper protection along the way.

Again I thank the Senator from Rhode Island, the majority leader, and the many others for the magnificent work that has brought us to this point on this day.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, I will be very candid with the Senate. It was my original feeling that this matter should have been contained within the Committee on Armed Services which does have oversight jurisdiction over the CIA. But in the spirit that this resolution has been offered by the distinguished Senator from Rhode Island, I am certainly prepared to accept it, because I think that the Senator from Rhode Island has set the right tone for the conduct of this investigation and the subsequent conclusions to be drawn from it.

I think that some examination of the domestic activities of our intelligence-gathering organizations should be investigated and I think perhaps such an investigation is overdue.

I think it is essential that agencies involved in this kind of work be proscribed from activities that either violate their charter, their congressional authorizations, or militate against the individual freedom of the American people.

I think, to that end, this is the most important thing that our committee can do or that the select committee when it is chosen can do.

It is my view that we can develop constructive legislation that affords such proscriptions and such protections. I would express the hope that has already been expressed by the distinguished Senator from Rhode Island that we can conduct our work in a responsible way, so as to preserve the confidentiality of matters that impact on the national security of the United States of America.

We must recognize that our adversaries and our potential adversaries have had a sophisticated intelligence-gathering organization, that they have an advantage over us in that they operate in this country in a free society, and in most respects in our operations abroad we operate in closed societies, making the gathering of significant intelligence a much more difficult proposition.

I think we do have to afford adequate

safeguards for our legitimate operations abroad.

I am hopeful that we can observe the need to conduct many of our deliberations in private. I think that although the objective set forth by the distinguished Senator from California is desirable, that as much as possible they be open to the public, there are going to be times, I think, when we can elicit more information and more significant and more penetrating and in-depth information, if we go into executive session.

So I think that what we must do is have a balanced approach here, recognize that we have to correct abuses, recognize that we must compel our intelligence-gathering operations to conduct themselves within the purview of the law that authorizes them, and at the same time recognize the vital interest of the United States from the geographic, strategic, political, tactical, economic situation that we find ourselves in and make sure we do not hobble ourselves and render ourselves at such a disadvantage that we cannot maintain the kind of international posture we need.

I might mention one other thing, Mr. President, and that is not only the necessity to protect some of our agents or some of our covert operations abroad, but also the confidence placed in us by foreign governments. We must, I think, be careful not to embarrass foreign governments, not just friendly governments, but perhaps some mutual governments and some that may not appear to be so friendly that may have supplied us some cooperation; and I would hope we would take care not to embarrass governments of these countries.

With the proper care, I think it is perfectly correct that we embark on this course today.

I am delighted to yield to the Senator from California.

Mr. CRANSTON, I thank the Senator for yielding.

On one point he mentioned, I recognize that there will have to be closed door sessions, first, in order to get such information, that would not otherwise be made available, and that the committee will need. I recognize the reason for his amendment. I think it is quite appropriate.

I would like to ask one question and make one point about it.

First, I think, as I said in my earlier remarks just now, that the committee must control the classification and declassification process; hopefully in coordination and cooperation with the administration, but it cannot get itself into a situation where it is unable to do certain work that it feels it must do.

In regard to the specific amendment that the Senator has offered, under his amendment how do we prevent the executive from abusing this authority?

For example, suppose they did not cooperate—

Mr. TOWER. If the Senator from California will withhold on his question, I was going to engage in colloquy with the Senator from Rhode Island on this matter.

Mr. CRANSTON. Fine.

Mr. TOWER. And we will bring all this out.

Paragraph 2 concerns me. It says:

And, number 2, disclosure outside the committee of any information which adversely affects the intelligence activities of the United States.

It would appear on its surface to say that if we stumbled into a matter such as the Chilean situation, the Bay of Pigs, or the Lebanon incursion, notwithstanding that it might appear to the Committee to be something that ought to be dealt with in the Congress, we should not disclose it.

Will the Senator from Mississippi reassure me that that is not the purpose of paragraph 2?

Mr. STENNIS. No, that is not the purpose of paragraph No. 2. We tried to wrap it up in such a way as require rules of procedure in the committee which I understand to be the feeling of the Senator from Tennessee.

Mr. BAKER. If there appears to be conduct by any agency of the U.S. Government that appears to be improper or exceeds its jurisdiction, that would not be limited by paragraph 2 of this amendment?

Mr. STENNIS. This does not put a limitation on the committee. It requires the committee to proceed under rules, regulations, and procedures. But these things are still left in the hands of the committee.

Mr. BAKER. I thank the Senator.

Mr. STENNIS. It is a rule of the Senate by a guideline.

Mr. PASTORE. With the modification, I am willing to accept the amendment.

Mr. STENNIS. If no one else wants the floor, can we have a vote on the amendment? Will the Chair put the question?

The PRESIDING OFFICER. Does the Senator from Mississippi modify his amendment?

Mr. STENNIS. Yes; by striking out the word "specifically" in the sixth line from the bottom.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

Mr. CURTIS. Reserving the right to object and I, of course, will not object. I would like to ask a question.

Is there any penalty or enforcement means to compel staff members of this committee to not disclose information that their committee directs should not be disclosed?

Mr. STENNIS. It is a sad state of the law, Mr. President, but I am quite doubtful that we have a law that really is drawn to cover situations of this kind. We have the old Espionage Act of 1918, which specifically requires there must be an intent to do harm to the United States. It is a kind of wide-open proposition which is, in itself, a very strong argument here for the adoption of this amendment. It puts in some kind of an obstacle. A staff member, if he violated the rule, would violate a Senate rule. It would not have any criminal penalty attached to it, but it would be a rule to that extent.

I hope the committee will get a promise in advance that no one is going to write a book—that no staff member is going to write a book, or a journal arti-

cle, or anything else—about things that were disclosed to them in these proceedings. I think that is a matter we have to trust to the discretion of the committee. Under present law we have to. I believe the Senator raised a good point.

Mr. CURTIS. I certainly am for the amendment of the distinguished Senator, but I believe we have to rethink our position on some of these things. Here in this country if someone discloses a tax return, he has violated a criminal law and can be punished. If he discloses secrets vital to the security of the United States, he is apt to defend it as the right of the people to know. We have, certainly, a right to not only make it a law violation to disclose, but there ought to be a penalty to it.

I thank the Senator.

Mr. STENNIS. I thank the Senator.

If there is no further discussion, could we have a vote on the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Mississippi.

The amendment, as modified, was agreed to.

Mr. STENNIS. Mr. President, I ask unanimous consent to yield 3 minutes to the Senator from North Dakota without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG. Mr. President, I see no objection to a thorough examination of the operations of the CIA, the FBI, or any other intelligence-gathering agency, but I believe it can only be done effectively, and without great injury to the agencies, by a relatively small committee and a small staff. A big investigating committee with a sizable staff—no matter how well intentioned—cannot avoid much of the information that develops at the hearings being leaked to the public, thereby becoming easily available to the intelligence agencies of Russia and every country in the world.

If the pending resolution involved a much smaller committee with only a very minimal staff, I believe the security of this Nation could be safeguarded and the investigation could be very helpful. I would hope that the meetings of the committee would be open to the public. If this were the procedure, then the public would get firsthand information rather than from leaks highly distorting the facts disclosed in the hearings.

Mr. President, I cannot help but be deeply concerned about the future effectiveness of the Central Intelligence Agency. No intelligence operation—particularly involving clandestine operations in foreign countries or involving some of our most advanced technology, especially in defense areas—can be publicly disclosed without endangering our sources of information, the lives of those involved in this type of intelligence operations, and the very effectiveness of an intelligence-gathering organization. Russian intelligence agents, for example, would only have to read our publications to obtain information highly valuable to them.

About 12 years ago when we had the missile crisis in Cuba a Russian intelligence agent, a high-ranking member of

the GRU, disclosed to Great Britain and the United States a great deal of inside information regarding how far Russia would go in this missile crisis. He also provided us with much other information regarding the entire operations of the GRU and KGB—their two major intelligence-gathering agencies. A book was published regarding the Penkovsky papers and information which has been in circulation for several years.

The point I am trying to make, Mr. President, is that Penkovsky expected to be caught and was caught. There was a 2-day trial and he was killed. Here in the United States there is not much of a penalty for even the highest ranking intelligence officer, a Member of Congress, or anyone else for disclosing our most highly classified intelligence.

Mr. President, the Washington Star-News of Sunday, January 26, 1975, published a very good editorial on the subject of intelligence and the forthcoming investigations entitled "The Great Intelligence Exam." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE GREAT INTELLIGENCE EXAM

This is the era of bosom-baring and the country's numerous intelligence-gathering organizations are not immune. As things stand now, various committees of the House and Senate are gearing up for investigations of the Central Intelligence Agency, the Federal Bureau of Investigation, the Defense Intelligence Agency and the National Security Agency. We hope that these investigations will be boiled down to, at most, one select committee in the House and Senate. We also hope that the investigations will be skeptical, thorough and responsible. A witch-hunt born of the peculiar sensitivities left over from Watergate would not be helpful. A careful analysis of this country's intelligence problems and legislation to remedy the mistakes and deficiencies of the past are very surely in order. A bipartisan congressional investigation is especially desirable in view of the conservative complexion of the blue-ribbon executive panel headed by Vice President Rockefeller which is also looking into CIA activities.

The difficulty, of course, is that, when it comes to intelligence-gathering operations, bosom-baring is a tricky procedure. The risk is that too much public exposure of a highly sensitive area of government will put the whole operation out of business, and imperil the reputations—and even the lives—of people involved, to say nothing of the nation's security. In the past, the congressional committees with intelligence oversight responsibilities have been squeamish about inquiring too deeply into these clandestine affairs. The present danger is that post-Watergate zealotry, inspired by news stories of a "massive, illegal domestic intelligence operation" mounted by the CIA a few years back, will lead to excesses of revelation.

For our part, we remain unconvinced that the charges have much real foundation. From what has been revealed so far—mostly by CIA Director William E. Colby to a House Appropriations subcommittee—it appears that the agency was involved in a program of internal surveillance of certain domestic dissident groups suspected of having connections with foreign agents. CIA agents were "inserted" in some of these organizations, some mail between American citizens and Communist correspondents was read, and files—largely furnished by the FBI—were established on some 10,000 people. In addition, Colby said, the program involved physi-

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Mr. CRANSTON. Fine.

Mr. TOWER. So that we will make it clear what everyone means and intends; but I think the distinguished Senator from Mississippi has been seeking the floor and has been very patient, so I would like to yield to him, and then we will take this matter up subsequently.

Mr. CRANSTON. Certainly. I thank the Senator.

Mr. TOWER. I yield to the Senator from Mississippi such time as the Senator requires.

Mr. STENNIS. Mr. President, I thank the Senator from Texas.

At this point, at least, I certainly will not require over 20 minutes, so we can just limit it to that.

Mr. President, after a conference with the Senator from Rhode Island and the Senator from Texas, I send to the desk an amendment to the proposed resolution and ask that it be considered now.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi proposes an amendment, at the end of the resolution, to add a new section as follows—

Mr. STENNIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. MANSFIELD. Why not let him read it?

Mr. STENNIS. All right, I withdraw that.

The PRESIDING OFFICER. The clerk will read it in full.

The assistant legislative clerk read as follows:

At the end of the resolution add a new section as follows:

Sec. 7. The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not specifically authorized by the select committee to be disclosed, and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. STENNIS. Yes, I am glad to yield to the Senator from Rhode Island. I want to state very briefly what the purpose is, but I yield now.

Mr. PASTORE. For the purposes of the RECORD, would the Senator in explaining his amendment, which I am going to accept, explain what he means by "not specifically authorized"?

Mr. STENNIS. Yes.

That is on the second part, is it not?

Mr. PASTORE. Yes.

Mr. STENNIS. Mr. President, this amendment relates to what we ordinarily call "leaks." It does not put any limitation on the committee whatsoever.

The first part relates to matters that are not expressly authorized or given

out by the committee itself or its members. It just requires that such reasonable rules and regulations as the committee may see fit be established by the committee regarding disclosures of information that might, in the second part, affect intelligence abroad.

But going back to the first one for just a moment, this relates to disclosures by those other than the committee, staff members or anyone else that might come in contact with this information.

In other words, the committee itself is called on by the Senate to make these rules and regulations.

Now, with reference to foreign intelligence or intelligence activities abroad—and that is what my plea is for here today, the protection of this foreign intelligence—there we are trusting the committee to write rules and procedures to set out for themselves and staff members regarding this foreign intelligence.

Mr. BAKER. Mr. President, will the Senator yield briefly for a question?

Mr. STENNIS. I am responding to a question of the Senator from Rhode Island.

Will the Senator restate his question with respect to paragraph 2?

Mr. PASTORE. I was wondering if the word "specifically" was not rather redundant. If it just said "not authorized by select committee," that would not lead to any controversial confusion.

Naturally, the authorization would have to be explicit. The word "specifically" for the time being, without knowing within what context it was inserted in the amendment, disturbs me for the moment, unless it is more explicitly explained. I thought if we just said "not authorized by the Select Committee" it would be enough.

In other words, I do not want the committee to sit down and begin to write a bill of particulars every time they are going to authorize some disclosure.

Mr. STENNIS. What line is the Senator referring to? I see it. That is before the second paragraph.

That relates to staff members.

Mr. PASTORE. I know that. This whole amendment relates to staff members. I quite agree with the Senator from Mississippi. I hope that the staff does not begin to hold news conferences. That always happens. They just take this whole thing over. I think if there are going to be any news conferences, they should be by the chairman or the members of the committee themselves. But in the past we have had the sorrowful situation that staff members fall over one another to see who can tell it to the press first. I think everything should be told to the press that needs to be told to the public. I think the public understands that.

Mr. STENNIS. This is not to prohibit that kind of information.

Mr. PASTORE. I know that. But I was wondering if the word "specifically" is not a little too tight for the committee. If we said "not authorized by the committee," I think we accomplish the objective.

Mr. STENNIS. What we were trying to get at was to cover the situation where a staff member or some other person had this information and, since it was not

covered in any way very plainly, that there was no prohibition on it. I do not think this puts too much of a burden. The Senator is opening up all of these files.

Mr. PASTORE. No.

Mr. STENNIS. The resolution does. I do not mean the amendment does but the resolution opens up the files. We just have to have a safeguard.

Mr. PASTORE. I do not think we are meeting on our intent here. I am not opposed to the Senator's suggestion that the matter of leaks should be prevented, and that the staff should not disclose anything without authorization by the committee. The only thing that bothers me is that he is tightening up the obligation and responsibility of the committee a little bit too much by using the word "specifically." If he left the word "specifically" out, I think he would accomplish his purpose and not open it up to debate every time there is the question of disclosure.

Mr. STENNIS. The main point here is to have something explicit in writing by the committee as to rules and procedures. When we nail that down explicitly, how it should be done, then we cover the waterfront.

We can strike out the word "specifically."

Mr. PASTORE. Will the Senator strike it out?

Mr. STENNIS. Yes.

Mr. PASTORE. If he strikes it out, I would accept the amendment.

Mr. STENNIS. With the understanding that this still carries with it—

Mr. PASTORE. With the understanding that the committee and only the committee has the authority to disclose. I will admit that.

Mr. STENNIS. It is better to be careful here than to be sorry later. This is not directed at the committee.

Mr. PASTORE. I know that.

Mr. STENNIS. This is putting the Senate in a proper position. I think it will help the committee to have the Senate go on record here in making this one of the ground rules, so to speak.

Mr. PASTORE. Is the Senator willing to delete the word "specifically."

Mr. STENNIS. Yes.

Mr. PASTORE. With the modification. I will accept the amendment.

Mr. YOUNG. Will the Senator yield for 3 minutes? I support the amendment.

Mr. STENNIS. I do not have control of the time. The Senator from Texas has control of the time.

Mr. BAKER. Mr. President, I ask the Senator from Mississippi if he will yield for a question on his amendment.

Mr. STENNIS. All right, and then I will yield 3 minutes to the Senator from North Dakota out of my time. I yield for a question.

Mr. BAKER. This is a question of clarification. This amendment, of course, is an antileak amendment. I think that is fine. I hope we succeed. We failed miserably in the Watergate Committee. Our former colleague and I tried in every way we could. It did not work.

There are some matters of sensitivity that have not been leaked, but are still in the Atomic Energy Committee, many of them, in safe storage.

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cal surveillance, wiretaps and break-ins directed at CIA personnel suspected of security leaks and, in a few cases, those who were thought to be receiving the information.

In Colby's opinion and that of his immediate predecessor, Defense Secretary James R. Schlesinger, the CIA, in this period, may have overstepped the strict limits of its charter. The various acts have been labelled as "regrettable" or "inappropriate" or—in the case of Colby—the result of "a misconception of the extent of the CIA's authority." Richard Helms, who was CIA director during most of the period of anti-war fervor, stoutly denies any impropriety on his part. The difference in judgment reflects more than anything else the change in climate in the last two years.

But surely a large part of the problem lies in the ambiguity of the charter of the CIA, written by Congress in 1947. In setting up the agency, Congress ruled that it should have no "police, subpoena, law enforcement powers or internal security functions" within the United States—this area being strictly reserved to the long-established FBI.

How realistic and workable this prohibition was is sharply illustrated by the events under investigation. Despite the prohibition against domestic spying, the director of the CIA was also made "responsible for protecting intelligence sources and methods from unauthorized disclosure." He was also instructed by Congress to "perform such other functions and duties relating to intelligence affecting the national security as the National Security Council may from time to time direct." Between them, it can be argued that these directives provide ample justification for the activities being denounced as "illegal." And the evidence is reasonably clear that a number of former directors believed this was indeed the case.

Clearly, the first objective of the current investigations must be to spell out more clearly the rules under which the CIA—and other intelligence agencies as well—are supposed to function. If all domestic counter-espionage is to be more severely restricted—as seems to be the mood of the liberal majority—Congress will also have to figure out how the CIA is to protect its "sources and methods from unauthorized disclosure." One obvious way, of course, would be pass a law making it a crime for former CIA agents to write books. But this would not solve the larger problem of trying to separate domestic and foreign intelligence into neatly separate operations.

Mr. STENNIS. Mr. President, how much time do I have remaining out of my 20 minutes?

The PRESIDING OFFICER (Mr. DOMENICI). The Senator has 2 minutes remaining.

Mr. TOWER. Mr. President, I yield 10 additional minutes to the Senator from Mississippi.

Mr. STENNIS. As I understand, that will leave me 12 minutes.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, my main plea today is for the protection of foreign intelligence and intelligence sources. I think all other matters do not add up, in the range of importance with the CIA's operations, to compare with this collection of foreign intelligence.

I appreciate very much the sentiments expressed on the floor of the Senate as to the necessity for CIA and other intelligence agencies, but that view is not shared by all the people and is not under-

stood, either, by all the people. There is a great deal of sentiment, even understanding sentiment, that would question the necessity for the CIA, or the propriety of having it.

Another thing, Mr. President, is that this is not a political issue, and CIA is not a political agency of any kind. It serves one President after another, as they come. It makes no difference which party that President belongs to and has nothing to do, with political matters.

Primarily, CIA is a Government agency collecting foreign intelligence of the most highly sensitive nature.

To be effective, it must be secret. If intelligence facts are disclosed, they often lose all of their value. If an adversary merely infers that we have certain intelligence, often it is no longer of value. An illustration would be work on a code.

The purpose of gathering intelligence is to learn intentions and capabilities. The first extensive foreign intelligence act ever passed by the Congress was in 1947. Called the CIA, it has come a long, long way in the past 26 years. For illustration, we no longer argue about a missile gap, or a bomber gap.

In the broad and essential fields, the CIA has done an extensive and effective job in dealing with enemy capabilities and intentions.

As we go through investigations, let us keep in mind the dangers from exposures. Exposures can be a matter of life and death to Americans abroad as well as friendly foreigners. This opinion is strongly shared by many highly respected persons, including Director Colby, who have been a part of the operations and know the facts first-hand. Friendly governments and friendly foreigners will greatly reduce, if not terminate their co-operation and assistance. They already have. The information flow has been greatly reduced. Our relations with other nations have been strained. Exposure of sensitive facts through hearings, through pressures, through staff members, or through other sources, regardless of the good intentions of the actors, comes at a price we cannot bear.

In a time of nuclear weapons, with the power to deliver warheads on target from continent to continent, we must have responsible information from many foreign sources. Further, our ships at sea, our military manpower scattered throughout the world in support of many commitments voluntarily made, are all in need of the fruit of intelligence gathered around the world.

The President, all Presidents, have to have this worldwide intelligence in formulating foreign policies, including trade and other economic policies formulated with nations around the world.

Intelligence comes from several sources, but much of it comes from our CIA agents abroad. In my travels, I have found them to be excellent men, capable and loyal, with a steady stream of highly valuable and responsible information. They seldom get credit for anything. They often get blamed—but by and large, they continue to carry on.

One purpose of my remarks today is to say a word of encouragement to those

men; to tell them they are appreciated, and to ask them to carry on under highly adverse conditions.

From some of this intelligence, we make decisions in the Congress as to military weaponry. We often save great sums of money, because this intelligence lets us know what weapons to avoid building as well as what weapons are most probably needed. Without the intelligence gained under the CIA direction, we would not have known of the missiles in Cuba until they were actually fully installed and we were directly under the gun.

Indeed, U.S. intelligence, on which the CIA sits at the top, has come a long way over the past two decades. We have reached the point where the SALT agreement is possible, because we can now verify what they have in being. A number of other treaties have also been possible, because of our verification process.

Under Director Colby, I feel that the CIA is now operating in a fine way, entirely within the law. I shall do my part in keeping it that way.

The organic act creating the CIA needs some amendments which tighten up the present law. Our committee has given some major amendments which I introduced in late 1973, special attention in 1974. I assisted Senator PROXMIRE with a similar major amendment offered by him to the military authorization bill. It passed the Senate with my active support and we made a strong effort at the conference in behalf of the amendment. It finally lost at conference because it was not germane, but the conferees for the House supported the idea of hearings which the House has started. We shall continue our efforts on that amendment and others.

We may have certain intelligence of great value to us. But if it is known to our adversaries that we have it, or if they suspect that we have it, then it turns to ashes in our hands and is of no value whatsoever.

Illustration: Hundreds of millions of dollars invested in electronic devices can become valueless overnight if it becomes known we have such devices.

Our committee shall continue to exercise committee jurisdiction on legislation regarding the CIA, and also exercise surveillance over its operations, and such other activities connected therewith as may be necessary.

We shall continue to have the Senator from Montana (Mr. MANSFIELD), and the Senator from Pennsylvania (Mr. SCOTT), the Democratic and Republican floor leaders and hence representing all of the Senators, invited to all of our meetings regarding the surveillance of the CIA. I have discussed this with the Senator from Montana on last Thursday and he expects to attend. The Senator from Pennsylvania attended our session last Thursday.

The CIA, of course must operate within the law, but I want to emphasize to all of my colleagues and to the American people that foreign intelligence supplied by the CIA is absolutely necessary for our President and his close advisers, including the top officials of all of our military

services, both those in civilian and military positions. In modern times this information is not merely needed, it is essential.

Therefore, someone has to stand up for the CIA through foul as well as fair weather, and make hard decisions and take firm stands, whether popular at the time or not. I have done that and I propose to do just that in the future. I shall not shirk this duty.

This does not at all mean that I propose to operate a duplicate or rival investigation with any select committee. I will make no attempt to do that, but I will carry out the purpose, as I have briefly outlined it here.

I thank the Senator from Texas for yielding this time to me.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I thank the distinguished Senator from Mississippi for his cogent remarks.

I think it would be appropriate for me to thank him at this time for the splendid leadership he has shown in the Committee on Armed Services. In fact, on numerous occasions, we have looked in depth at some activities of the CIA and it has not been generally known that we have. I think the Senator from Mississippi has always measured up to his responsibility in the highest tradition of the Senate.

Mr. President, may I inquire how much time I have left?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. TOWER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. TOWER. May I call to the attention of my friend from Rhode Island that I have now offered the amendment.

The legislative clerk read as follows:

At the end of the resolution add a new section as follows:

"No employee of the select committee or any person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance. The type of security clearance to be required in the case of any such employee or person shall be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee."

Mr. TOWER. Mr. President, the amendment is somewhat self-explanatory. However, I think we should make some legislative history on it. What is contemplated here is the type of Q clearance which is administered by the Atomic Energy Commission and which the Senator from Rhode Island is so well familiar with. I should like the Senator from Rhode Island to comment on it at this time if he would.

Mr. PASTORE. I have no objection to the amendment provided I get a further explanation of the last sentence:

The type of security clearance to be required in the case of any such employee or person shall be commensurate with the sensitivity of the classified information to which

such employee or person will be given access by the select committee.

As determined by the committee.

After all, who is going to make this determination? We are not going to have a debate by the members of the committee every time we get to a point where this would apply. I am all for preserving the classification; the Senator from Texas knows that I am all for his amendment, the spirit of it, the intention, the objective of it. But I think we should make clear that the determination ought to be on the part of the committee.

When it says "sensitivity of the classified information," who is going to determine whether it is sensitive or not? We have to say here "the type of security clearance to be required in the case of any such employee or person shall, within the determination of the committee, be commensurate with the sensitivity," and so on.

Mr. TOWER. I should be glad to accept that as a modification by the Senator from Rhode Island.

Mr. PASTORE. That is what I want. I want the determination to be made by the committee, if we can work out that language.

Mr. TOWER. That suits me splendidly. As a matter of fact, if the Senator will read that language again, I think that would be a suitable modification.

Mr. PASTORE. The type of security clearance to be required in the case of any such employee or person shall, within the discretion of the committee itself, be commensurate with the sensitivity of the classified information to which such employee or person will be given access to the select committee.

Mr. TOWER. I will accept that language as a modification by the Senator from Rhode Island.

The PRESIDING OFFICER. The amendment will be so modified. Will the Senator send the modification to the desk?

The amendment, as modified, is as follows:

No employee of the select committee or person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance as determined by the Select Committee. The type of security clearance to be required in the case of any such employee or person shall within the determination of the Select Committee be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.

Mr. TOWER. What is contemplated here is a simple type of Q clearance which is ordinarily required of Senate employees.

Mr. PASTORE. I realize that. Every member of the staff of the Joint Committee on Atomic Energy has Q clearance and has to have it. I think in this particular case, where we are dealing with classified information, covert activities abroad and domestically, I think we have to have reliable people. We just cannot afford to take a chance.

Now, I am all for this study and this investigation. I repeat, I do not want to

be misunderstood. There have been a lot of mistakes and they have to be corrected. But we are not out to destroy intelligence-gathering.

I remember one time when I was sent by President Kennedy to Moscow to witness the signing of the Nuclear Test Ban Treaty. I was sitting on the porch of the Embassy, together with Dean Rusk, at the time, and we were talking about a lot of measures. Finally, the Ambassador came out and said, "I suggest you two gentlemen take a walk and do your talking because this place is bugged."

"This place is bugged." Now, that is what the Russians are doing to us. As a matter of fact, they did it right down there at the United Nations. They had a bug, I think, under the American seal. We all remember that.

Let us face it: We are in a critical world where we are being spied upon and, in order to know what they are doing, we have to spy on them. There is no question about that. But that has nothing to do with many of these charges that have been made.

Nobody is out to destroy the CIA. Let us get an understanding on this. No one is out to destroy military intelligence. No one is out to destroy the FBI. Let us make it all clear.

On the other hand, this is an open society. All we are saying is that there are some things that have been wrong, and under the pretext of either national security or secrecy, private rights are being violated unnecessarily. That is all we are trying to eliminate. That is all we are trying to do. It is as simple as all that.

I am perfectly willing to accept this amendment with that modification.

Mr. TOWER. The modification has been accepted. The amendment has been so modified.

I might say one other thing. I think this is partially for the committee's protection. If we did not require clearance of some sort, it is not impossible that an alien intelligence organization could penetrate the committee by inserting one of its people on the committee staff. So I think we would want that kind of protection, because I do not think the committee would ever want to be embarrassed by finding, having failed to require any kind of clearance, that their staff had been penetrated.

Mr. BAKER. Will the Senator yield?

Mr. TOWER. I yield to the Senator from Tennessee.

Mr. BAKER. Will the Senator from Texas reassure me that by setting up these requirements for classification, we are not setting up within the committee layers of access and levels of access to information that will be available to the committee? What I have in mind is the possibility that the committee may decide that there is a requirement for security beyond even the requirements for Q clearance, a kind of "eyes only" classification, and have someone say to Howard Baker, that he can read those 8,000 pages, but his staff man does not have that clearance.

Now, can the Senator assure me that nothing that is contained in this amendment will in any way deprive any Member of access, and his staff, if otherwise properly cleared?

The PRESIDING OFFICER. The time of the Senator from Texas has expired. The Senator from Rhode Island has 32 minutes.

Mr. PASTORE. I think we ought to get this amendment clarified further.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MANSFIELD. I understand, Mr. President, after listening to this debate, that it is the Senate select committee, if there is one approved by the Senate, which has the final determination as to who shall have access to what information; is that correct?

Mr. PASTORE. That is correct.

Mr. MANSFIELD. No executive agency shall determine directly or indirectly who shall have access to information.

Mr. PASTORE. That is correct. And I cannot be more explicit than that. I would like to have the amendment read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

At the end of the resolution add a new section as follows:

"No employee of the select committee or any person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance as determined by the select committee. The type of security clearance to be required in the case of any such employee or person shall within the determination of the select committee be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee."

The PRESIDING OFFICER. The Senator from Rhode Island has 30 minutes remaining.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. CRANSTON. The Senator from Rhode Island, I think, has performed a very useful service in making plain that the second part of this amendment is finally in hand for decisionmaking purposes of the committee.

Mr. PASTORE. That is correct.

Mr. CRANSTON. But the first part creates a similar problem.

Mr. PASTORE. No, he added the words for the first part, too; right at the end of the first sentence he added the words "within the determination of the select committee."

Mr. CRANSTON. I have a somewhat similar question to ask; it is similar in its implication, and I perhaps need the help of the Senator in figuring out what to do about it.

With respect to the words "unless such employee or person has received an appropriate security clearance," who gives security clearance?

Mr. PASTORE. Usually by the FBI and all other sensitive agencies of Government. That is the way they do it now.

Mr. CRANSTON. The question I ask is, how do you prevent, and just make certain, that there is no abuse of this by the executive branch? They would not, I assume, try to hold down the staff

to zero, but they might improperly withhold or delay security clearances.

Mr. PASTORE. The Senator from Montana just asked the question and I answered it. It is not up to any agency executive; it is up to the committee.

Mr. CRANSTON. Who is going to give clearances, the committee or the executive?

Mr. PASTORE. The committee is going to determine whether the clearance is adequate and sufficient.

Mr. CRANSTON. If a staff person that the committee wishes to use is denied clearance by the executive branch can the committee override and decide they are going to hire that person?

Mr. PASTORE. Well, in an extreme case, I would have to answer the Senator in the affirmative, but I mean, after all, I do not anticipate that. I do not anticipate that trouble.

Mr. CRANSTON. I did not anticipate it generally. I think we might anticipate it in regard to certain individuals who might render invaluable service to the committee but who might be preferred not to be on that committee staff by one or another of the agencies we are talking about.

Mr. PASTORE. Is the Senator saying to me if for some capricious motive some executive department refused to grant a clearance, the question would arise, would that put that individual out of commission?

Mr. CRANSTON. Yes.

Mr. PASTORE. The answer is no. The answer is it is up to the committee to make the determination.

Mr. CRANSTON. That is fine. I thank the Senator.

Mr. PASTORE. OK. Does any other Senator wish to speak before we vote?

Mr. BAKER. Mr. President, I am happy to have this opportunity to express my support for Senate Resolution 21, legislation establishing a Senate Select Committee on Intelligence Oversight.

As an original cosponsor of the resolution offered by Senators MANSFIELD and MATHIAS, and as a strong supporter of this legislation offered by Senator PASTORE, I believe this resolution to set in motion a responsible study of the intelligence activities carried out by or for the United States is of tremendous importance.

In supporting the creation of a select committee, as in sponsoring legislation to establish a permanent Joint Committee on Intelligence Oversight, let me emphasize that it is not my intention to criticize the distinguished chairmen of the Armed Services Committee or the Appropriations Committee, or the ranking minority members of those committees. They have done an admirable job in carrying out the diverse duties and responsibilities of leadership on those committees. In my view, however, the far-reaching operations of the some 60 Government agencies which conduct an intelligence or law enforcement function demand the careful scrutiny of a select committee created for that purpose and charged with that responsibility.

Some have argued that Congress cannot be trusted to participate in the crit-

ical and terribly secret operations of the intelligence community. They cite the fact that Washington has become known as a city of leaks. I suggest, though, that critics are losing sight of the explicit confidence in which Congress has dealt with national security agencies of the highest order in the past.

In our past national conflicts, during World War I, World War II, the Korean war, and the war in Vietnam, the rule has been confidentiality where required.

I am proud to serve on the Joint Committee on Atomic Energy, a committee which is so ably chaired by the sponsor of Senate Resolution 21, Senator PASTORE. I believe I am correct in saying that, in more than a quarter century, there has never been a security leak from the Joint Committee, which daily deals with what are perhaps the most sensitive materials in the entire annals of the defense establishment. It is evident, then, that ample precedent exists for congressional participation in such a sensitive area. I am not impressed by those who contend that Congress is not to be trusted with the truth.

A balance must always be made between the requirements of a democracy for public knowledge, and the requirements of its security and defense. When a doubt arises, the people's branch of Government must be privy to those requirements and the pertinent information required to make a balancing judgment.

The outcome of the select committee inquiry, obviously, cannot be foreseen. I pledge my personal efforts, just as I know the other members of the select committee will dedicate their efforts, to seeing that our job is done thoroughly and that we follow the facts wherever they lead without fear or favor. This resolution charts neither a whitewash nor a witch hunt; it does establish a select committee to carry out a sensitive mission as fairly and as even handedly as possible.

It is not my intention to carry out a vendetta against the Central Intelligence agency, or against any established intelligence agency of our Government. I believe that the CIA, the FBI, and other agencies are necessary to the security of our national institutions when they perform their proper functions.

Serious allegations have been made, however, and it is the responsibility of the Congress to weigh the charges, find the facts, and determine what remedial action, if any, is necessary to make sure that an effective intelligence program is maintained without endangering the rights of our citizens.

Mr. President, I shall not detain the Senate long. Everything has been said which should be said, I believe. I am pleased and I am gratified and enthusiastic about the action that I believe the Senate is about to take. I think that it signifies diligence and sensitivity and the recognition of a necessary national purpose. It speaks well of the viability of this group as a great deliberative body in support of the executive branch of Government.

I have no quarrel with the CIA. I cer-

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Mr. TOWER. I do not perceive that it would. In other words, for the protection of the staff—

Mr. BAKER. What does the Senator mean, he does not perceive that it would? Is it his opinion that it would or would not?

Mr. TOWER. It is my opinion that it would not.

Mr. BAKER. Does the Senator wish that to be included as part of the legislative history?

Mr. TOWER. As a matter of fact, the committee itself will determine.

Mr. BAKER. Does he wish it to be a part of the legislative history of this amendment that it is not his understanding or intention as the author of this amendment to create that situation?

Mr. TOWER. It is not my intention to create that situation.

Mr. BAKER. And it is not his belief that that will occur?

Mr. TOWER. It is not my belief that it will occur. But it is my intention that we should not have people on the staff who would be security risks.

Mr. BAKER. We all share that concern. Let us very much hope we succeed in keeping leaks from occurring altogether. I assure the Senator that this will be the case as far as this Senator is concerned. But as far as I am concerned, I cannot in good conscience see the adoption of an amendment that will make part of this committee privy to highly sensitive material while other parts of the committee, though legally, as a practical matter might be deprived of that information.

Mr. PASTORE. Will the Senator explain that again?

Mr. BAKER. Yes. Assume for a moment that the committee, in its discretion, according to the amendment that the Senator from Rhode Island proposed and Senator TOWER accepted, adopts some classification beyond, say, a Q clearance. We all know there are some classifications beyond a Q clearance. Suppose the Senator's personal staff or select committee staff comes to him and says, "I cannot gain access to that last communication Director Colby sent to us because the committee says we have to have an XQI clearance as well as a Q clearance." I want to be sure that I, as a member of the committee, or anyone else as a member of the committee, will not be thus deprived of access to any information that comes before that committee.

Mr. PASTORE. His amendment only has to do with staff members. The Senator is saying he does not want to be deprived. If a member of his staff or anyone on that staff that he may be responsible for the committee engaging does not get the clearance from the committee that he must have, he cannot get the information.

There is nothing wrong with that, because he is the one who determined that he could not get it.

Mr. BAKER. Mr. President, as long as I am assured, which is the only thing I sought, that the concern that I expressed was not the intention of the author of the amendment, I will be satisfied I do not want to be deprived, legally

or effectively, of any information that comes before this committee. If there are 10,000 pages of classified material, I cannot read it, and the Senator cannot either, or it is unlikely that he is going to be able to.

I think I have that assurance. If the Senator from Texas will express his understanding that this will not be used as a device to deprive any of us of information, then I am perfectly pleased with it.

Mr. TOWER. It was the intention of the Senator from Texas to establish what he thinks is the minimum requirement that we can establish; that is, some sort of clearance for people. I noted a moment ago that it is conceivable that if we required nothing, the committee staff could be penetrated by an alien intelligence-gathering organization. I think this would be particularly true of clerical help.

I think that the professional staff that is likely to be engaged will probably be people who will have no difficulty getting any kind of clearance they need. It is not my intention to proscribe or to hobble the action of any Senator on the committee.

Mr. BAKER. Whose authority will be required to gain the clearance, that of the full committee or the chairman and vice chairman?

Mr. PASTORE. By vote of the committee.

Mr. TOWER. I should say the committee has to meet and make its ground rules pursuant to the guidelines laid down here.

Mr. BAKER. Is that the Senator's intention?

Mr. TOWER. That is my intention.

Mr. PASTORE. May we have the amendment read again?

Mr. BAKER. Mr. President, one further question, if I may: It has been necessary, in my experience, to enlist one's personal staff, legislative assistant, or anyone else, to help in a compilation or ordering of the information at hand. I fully agree that then they should be required to have whatever clearance is required, and be fully investigated. But I hope there is nothing in this amendment that would prevent an application for clearance of personal staff, and that on obtaining that clearance, they would, in fact, be subject to the same rules as committee staff.

Mr. PASTORE. That is correct. We do that on the joint committee now. The Senator from Missouri has had members of his staff who have Q clearance look at some of our classified information. They are entitled to do it, with the permission of the committee itself.

Every person who looks at classified information has to be cleared. We should be clear about that.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the Senator from Missouri.

Mr. SYMINGTON. I thank my able friend from Texas.

As I understand it, whoever is cleared, whether he be on the staff or off the staff, is cleared for the information. He is cleared for the information on the basis of the nature of the clearance that

he receives. It would be up to the Senator in question to decide whether he was violating the rules of the Senate if he was on the committee and at the same time discussed any matter with somebody who did not have the proper clearance.

Am I correct in that?

Mr. BAKER. Absolutely.

Mr. PASTORE. That is right. No one disputes that.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. PASTORE. Yes.

Mr. STENNIS. I believe the Senator from Missouri was talking about someone who was not on the committee staff. I would not think that anyone who was not responsible to the committee would have access to this information.

Mr. PASTORE. Oh, no—

Mr. SYMINGTON. May I say in answer to my able friend, the Senator from Mississippi, I was discussing this matter with the distinguished senior Senator from Tennessee on the basis of his staff; and the Senator is entirely correct, and if he is on the committee—and I read he was on the committee—then it would be his problem to see that the people on his staff were cleared to receive the information on the basis of their clearance, and did not receive it if they did not have adequate clearance.

Mr. PASTORE. Provided they got the permission of the committee.

Mr. STENNIS. It would be a committee responsibility.

Mr. PASTORE. That is why I am writing there "by the determination of the committee."

Mr. BAKER. I entirely agree with that. Does the Senator from Texas?

Mr. TOWER. The determination is to be made by the committee, that is the difference.

Mr. BAKER. And it can be made for security classification for personal staff as well as staff—

Mr. TOWER. Not for personal staff. I think for any information that the Senator gives to his personal staff, he has the personal responsibility to determine whether that staff member has an adequate clearance. My own personal policy is that nobody handles classified documents on my staff unless they have clearance.

Mr. BAKER. That is the essence of my question. The answer to the question to the Senator from Texas is—

Mr. PASTORE. We are confusing a very simple thing. Let us get it plain. No one can look at classified information unless they have clearance.

Mr. TOWER. Right.

Mr. PASTORE. If a personal staff member of any member of the committee has that clearance, he or she can be entitled to that classified information only if the committee gives permission.

Mr. BAKER. Mr. President, that is my understanding.

Mr. PASTORE. That is the rule of the Joint Committee on Atomic Energy now. I cannot say it more clearly than that.

Mr. BAKER. Is that correct?

Mr. TOWER. That is correct, and the policy will be set by the committee. I see no reason why a majority of the committee cannot work it out satisfactorily.

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tainly have no quarrel with the Senate Armed Services Committee or its distinguished chairman. This resolution, however, is drafted so that it extends far beyond the CIA, to the entire intelligence apparatus of this country. Some of my colleagues may be interested to know there are 60 agencies of the U.S. Government that conduct some sort of intelligence or law enforcement responsibility. There are 16 agencies of the Government conducting intelligence operations other than the CIA and the DIA, Defense Intelligence Agency, and the FBI, which have a combined budget of over a billion dollars a year. The intelligence of the Federal Government is an enormous business.

I became concerned about this matter in the course of Watergate. The stories which have appeared in the press and been related by others to me since that time have done nothing to allay that concern. It is important, I believe, that we have a thoroughgoing investigation to determine whether or not the agencies involved in the intelligence activities of the Government are complying with the requirements of the law.

But maybe—just maybe, Mr. President—there is one other thing that we need to do to reassure not only Congress but the people of this country, and that is to make sure that the intelligence community and, of course, to some extent the law enforcement community, is under somebody's control. They are not autonomous entities within a representative democracy, as I am sometimes tempted to suspect.

We are not talking about a Republican national administration or a Democratic. I rather suspect that some of the practices that we see discussed in the public forum began a long time ago, and maybe included activities going all the way back, possibly, to the Eisenhower administration, the Kennedy administration, and the Johnson administration. I think, Mr. President, one of the major undertakings of this committee ought to be to talk to the last surviving ex-President we have and to examine the records that are available to us to determine whether or not the President of the United States knows what is going on in the CIA, the DIA, and the FBI.

I want to be reassured in that respect, and I confess I am not now. I suppose we would run into the questions of our friendly adversaries on executive privilege and executive powers with respect to those Presidential powers. I know former President Harry Truman declined to grant certain information after he left office, but I think we ought to try. We ought to find out not whether the CIA, for instance, was engaged in domestic surveillance, but whether somebody was running the show. I know Congress was not running the show; and I want to be relieved of that shuddering fear I have that the White House was not, either.

So I pledge, if I am a member of this committee, that I will conduct it as discreetly and privately as I can commensurate with my responsibility.

I pledge that we will be careful to preserve our legitimate intelligence interests.

I pledge, as well, that the public's right to know is second only to national survival, and that when we are finished with the private portion of these hearings there will be a public disclosure, a public declaration including the good and bad, recent and in the past.

It is a terrible time we are in. We have not had a President who has completed his term, in a sense, since President Eisenhower. These are turbulent times when we have set about the business of investigating ourselves to the point where sometimes I think we are devouring our public officials, our leaders.

When I permit myself the luxury of thinking that, sometimes it also dawns on me that the investigation has been pretty productive, and we have got to do this one, too, not because we are bent on political cannibalism, but because it has to be done.

I believe, Mr. President, that it will be done, and done effectively.

I pledge my efforts in that respect and I serve notice, as well, that I will devote every ounce of my energy to seeing that we find all the facts and pursue them, wherever they lead us.

It is far too late in my political career to worry about whom I might hurt or who might be injured.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PASTORE. Have we voted on the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas, as modified by the Senator from Rhode Island.

The amendment was agreed to.

Mr. TOWER. Mr. President, will the Senator from Rhode Island yield to me?

Mr. PASTORE. How much time will the Senator require?

Mr. TOWER. A couple of minutes.

Mr. PASTORE. All right.

Mr. TOWER. Since I have run out of time.

Mr. PASTORE. OK.

Mr. TOWER. I have an amendment here which I will either offer or not offer. It is copied directly out of the resolution that authorized the select committee for the Watergate investigation.

It simply says:

The minority members of the select committee shall have one-third of the professional staff of the select committee (including a Minority counsel) and such part of the clerical staff as may be adequate.

Mr. PASTORE. Why not leave that to the committee?

I think—

Mr. TOWER. The Senate resolution requires 30 percent, I believe.

Mr. PASTORE. Yes.

Mr. TOWER. If the Senator from Rhode Island will simply assure me the minority will get adequate staffing—

Mr. PASTORE. It will be up to the committee itself. I will not have any authority over the committee.

Mr. TOWER. I think an undertaking by this side of the aisle would be honored by the majority on the committee.

Mr. PASTORE. All right, so I undertake it.

Mr. TOWER. I thank my friend from Rhode Island.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PASTORE. I yield to the Senator.

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the resolution add a new section as follows:

Sec. 7. As a condition for employment as described in Section 3 of this Resolution, each person shall agree not to accept any honorarium, royalty or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by this Committee.

Mr. PASTORE. I will accept this amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I send up another amendment for the purpose of colloquy.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On Page 4, line 4, insert after the word "agency" the following: "or any Committee or Subcommittee of the Congress."

On Page 5, line 13, insert after the word "agencies" the following: "or any Committees or Subcommittees of the Congress"

Mr. HATFIELD. Mr. President, I would like to ask the Senator from Rhode Island a question because I may withdraw the amendment after I have the record made on the problem that concerns me so greatly.

As a member of the Rules Committee, I am aware that we have brought before us the requests from various committees and subcommittees in the Senate for the budget to operate that committee.

The Internal Security Subcommittee of the Committee on the Judiciary, during the presentation of their budget request on February 27, 1974, indicated that they kept records on various people in this country which they gathered through intelligence activity. They had files, names of people that could be considered as suspicious, and other such characteristics as they indicated to our committee.

My only point is that I realize that this is not a matter of one Senate committee investigating other subcommittees or committees where we have the word "investigation" on page 2 of our resolution today, however, we have some various generalities as to what this committee's authority may include.

A prime responsibility is that it can look into, of course, any agency which is carrying out intelligence or surveillance activities on behalf of any agency of the Federal Government.

I would like to ask the Senator from Rhode Island if he considers that the language is broad enough, on page 2, lines 8 and 9, to include the reviewing of the activities of the Internal Security Subcommittee of the Committee on the Judiciary of the U.S. Senate, as it might

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relate to surveillance activities or gathering of intelligence.

Mr. PASTORE. Well, I mean, if they so determine. I do not see how that is apt to happen. The House already disbanded that committee. I hope we do it here in the Senate, as well. But this is a far-reaching authority.

If they so choose to do it, I would say that they could, but I would not want to amend the present resolution as it now stands.

Mr. HATFIELD. Would the Senator have any objections to the latitude and scope of this committee being interpreted to include some review or investigation of activities of the Internal Security Subcommittee, to see how it is collecting data?

Mr. PASTORE. Well, if they have done things as bad as the CIA or FBI, if it is so determined, I do not see why any Senate committee should be immune.

I mean, we have got to treat ourselves as we expect to treat everybody else.

Mr. HATFIELD. Mr. President, I am very happy to hear the Senator say this, because it would seem to me if we are basically concerned about the abridgement of civil rights of our citizens through the action of gathering intelligence, and so forth, of executive agencies, we should be doubly concerned about the procedures used by one of our own subcommittees of the U.S. Senate.

I, for one, am not satisfied with the answers I received from the chief clerk of that subcommittee as he appeared before our Rules Committee.

I would like to think it is understood that the resolution certainly carries with it enough authority for that committee under this resolution to look into these activities of the Internal Security Subcommittee, if someone brings that issue up before the committee.

Mr. PASTORE. Or any other committee.

Mr. HATFIELD. Or any other committee, but this one committee is already involved.

Mr. PASTORE. But that is not the thrust. I want to make it clear, not the thrust of this resolution, but it would be encompassed in it because it is broad in scope.

Mr. HATFIELD. I understand, but I would not want to exclude one of our own subcommittees, if we are so anxious to investigate the executive agency. That is why I am raising the question. Congress should look at its own intelligence gathering and file keeping also.

Mr. PASTORE. That is right.

Mr. HATFIELD. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BARTLETT. Mr. President, will the Senator from Rhode Island yield to me 2 minutes?

Mr. PASTORE. I yield 2 minutes to the Senator.

Mr. BARTLETT. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

To Section 2 add a new subsection as follows:

"(16) Whether new legislation or an amendment to any existing legislation should be enacted to strengthen the national security, intelligence or surveillance activities of the United States."

Mr. BARTLETT. Mr. President, the amendment adds to section 2, beginning on page 3, one more paragraph, to insure that the Senate further expressly authorizes and directs the select committee to make a complete investigation with respect to the following matters, or questions. It adds the question of whether there needs to be any bill introduced or any amendment to strengthen the national security, intelligence or surveillance activities of the United States.

I am aware, as the Senator from Rhode Island knows, that section 4 on page 10 of the bill authorizes the select committee to recommend the enactment of any new legislation or the amendment of any existing statute which it considers necessary for these purposes.

But I want to be assured that the question will be answered by the committee, and to know that in case there was no forthcoming legislation that there would be a definite and definitive answer as to whether this question had been reviewed and answered by the committee in its recommendation.

Mr. PASTORE. I would suppose so, otherwise this whole investigation would be a nullity.

In other words, if nothing was found and nothing was wrong, and naturally, of course, they had given a bill of endorsement, we would have to change nothing by legislation.

On the other hand, if certain authority was exceeded or the agencies went beyond the parameters of the present charter and got us mixed up in Laos, got us mixed up in Chile, got us mixed up in Cambodia and other parts of the world, where they had no authority without the consent of Congress, in that particular case, the committee would come back and make a recommendation, if they would find it necessary to do so.

I would hope, without encumbering this with duplicate language, that we would understand that these are legislative words of art when it says the select committee shall have authority to recommend the enactment of any new legislation. They have the authority. I would hope that they would exercise it.

Mr. BARTLETT. Will the Senator yield?

Mr. PASTORE. What the Senator wants to do is to say that they have to make a recommendation one way or the other.

Mr. BARTLETT. I am saying, if I may say to the Senator from Rhode Island, that they shall make a determination of whether or not there is legislation needed to strengthen the national security, intelligence or surveillance activities that they shall make that determination. Is the Senator assuring me that they will make that determination in deciding whether or not they will avail themselves of the authority of section 4?

Mr. PASTORE. I would hope so. I would hope so.

Mr. BARTLETT. With that assurance from the Senator from Rhode Island, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CRANSTON. Mr. President, will the Senator yield? I would like to ask one question of the Senator from Texas regarding his amendment.

I assume that it was not his intention that the amendment would be used to deny a member of the select committee staff of the knowledge of the existence of a classification designation or a classified program. I ask that in light of the fact that many documents and programs bear a classification that is actually higher than the secret which, itself, is classified.

Mr. TOWER. May I say to the Senator from California I believe we have already answered that question. It would be up to the committee to determine what kind of clearance is required. That will be an internal housekeeping matter for the committee. But the guidelines should be laid down. I believe the committee would want to be protected. I mentioned as a worst case theory awhile ago that perhaps a foreign intelligence-gathering organization, in the absence of any intelligence clearing on our part, could insert one of its people into our committee staff and actually penetrate the committee. That would be of considerable embarrassment to the committee member under whose sponsorship that person was. I think we should have that protection.

In addition to that fact, the country should have that protection. I believe we have a public responsibility to make sure that the people that we put in these staff positions are going to be people whose sense of discretion and loyalty are beyond question.

Mr. CRANSTON. I admire the Senator's efforts to cut off such dangers. Since there is no law that gives the Executive the power of clearance or denial of clearance, since that is done by Executive order, whatever rules the committee writes will govern what happens in this area.

Mr. TOWER. This is correct. It is the committee's baby.

Mr. CRANSTON. I thank the Senator.

Mr. PASTORE. Well, let us see if we cannot put the baby to sleep. I suggest the absence of a quorum.

Mr. TOWER. Will the Senator withhold that for a minute and yield to me?

Mr. PASTORE. I yield.

Mr. TOWER. Mr. President, in the Friday, January 24, issue of the Arizona Republic, William P. Maloney, Jr., a former ambassador to Ghana and a good Democrat who insists that CIA regulation is long overdue, he states that:

In the approaching investigations, it is important to keep two things in mind: That a competent intelligence branch is essential to our survival and that the CIA, with all its faults, is one of the best, if not the very best, organizations of its kind around. So let us not throw the baby out with the bath.

I ask unanimous consent that his letter in the Arizona Republic be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

right to know what its Government is doing and why.

If the events of the past 2 years are to provide the momentum to help fashion any changes in the way we conduct our Government, they should at the very least underscore the necessity for public accountability—in this case, accountability to the Congress for the proper and judicious administration of intelligence gathering agencies and the assurance that those activities are subject to the restraint of law as they impinge upon the free exercise of our constitutional rights.

If the select committee is to carry out this mandate, it must not be impeded in any way in its investigations.

The committee should explore still unanswered questions about the use of intelligence agencies in the Watergate incident and any other instances where agencies exceeded their authority.

The committee should examine the existing laws and procedures for review of their implementation and recommend necessary changes.

Finally, the work of the committee should serve as a basis for restoring public confidence in the integrity and quality of our intelligence agencies.

In the December hearings before the Intergovernmental Relations Subcommittee, Senator BAKER testified that as a member of the Senate Select Committee on Presidential Campaign Activities he was told at one point in his investigation that the CIA would supply no further information to the Watergate committee but instead would supply all of the information to their regular oversight committees. Senator BAKER went on to say:

That effectively ended the Watergate Committee's inquiry into CIA involvement.

Based on the explanation by Senator MANSFIELD and Senator PASTORE on the day Senate Resolution 21 was introduced, there should be no question about the right and the authority of this committee and its staff to obtain any information which in any way affects or relates to the intelligence activities of the Government.

As the able majority leader stated so well:

... it should be made clear that this committee will only be able to perform its function effectively if the provisions of this resolution are liberally construed by committees and by the agencies which are the subjects of its investigation.

Nothing should be able to be used as a bar to a thorough investigation—neither the system for classifying national secrets nor the provisions of the National Security Act itself.

I am confident that the members of this committee will use this authority judiciously with the utmost concern for preserving and improving the institutions they are charged to examine.

It has taken us a long time to reach this important point but the effort promises to bring forth fruitful and constructive change.

Mr. PACKWOOD. Mr. President, early last week the Senate determined to take an active role in the investigation of al-

leged misconduct by the CIA and the FBI. Legislation was offered to establish a Watergate-like select committee to thoroughly examine these allegations and determine their validity. We are going to vote on that legislation this afternoon and I intend to support it.

In addition to the CIA and the FBI, the select committee will also review the activities of the other Federal intelligence gathering agencies, including the National Security Council and the Defense Intelligence Agency. However, the main focus will be on the heretofore largely unknown activities of the Central Intelligence Agency and the Federal Bureau of Investigation.

For the last 2 months, the newspapers have been replete with stories of CIA involvement in Watergate-related intrigue in violation of the CIA's legislative mandate to restrict all intelligence gathering activities to foreign countries. Further, we have been informed that the FBI was actively and illegally wiretapping civil rights leaders and other politicians at the 1964 Democratic Convention. Who, Mr. President, sanctioned these wiretaps? Who suggested to the CIA that they assist E. Howard Hunt with his masquerade for the purpose of clandestinely breaking into the office of Daniel Ellsberg's psychiatrist—a patently illegal act? Who put together the Huston plan to infiltrate dissident groups for the purpose of gathering information on them? These are questions that need to be answered and I trust that in the course of the select committee's investigation they will be.

Mr. President, the collection and cataloging of information on individuals—without their knowledge or consent—has always been abhorrent to the American people. It is, at a minimum, a violation of the constitutional right to privacy as guaranteed by the fourth amendment and, at maximum, a threat to one's liberty and freedom of expression. In the context of these recent revelations, we hear the phrase "police state" banded about and I am disturbed by it. A democracy is founded on the principle that the Government is for the people, not against them. Consequently, as the elected Representatives of the American people and their interests, it is incumbent upon the Congress to act quickly to insure that this unwarranted intrusion into the private lives of U.S. citizens has stopped and will not recur. The responsibility is ours and the response must be ours as well.

Mr. President, included within the purview of the select committee's inquiry is "The extent and necessity of overt and covert intelligence activities in the United States and abroad." I have already expressed my deep concern for unmonitored intelligence gathering operations within the United States, particularly those conducted by the CIA, but I would also like to remark briefly on the need for some congressional knowledge of and input into the foreign intelligence activities.

Up to this time, the Congress has generally had very little knowledge of CIA operations in a foreign country unless something goes wrong and a great deal

of adverse publicity results. Witness the Bay of Pigs fiasco and the toppling of the Allende government in Chile. While I do not dispute the need for secrecy in their overseas intelligence operations, I would be interested to know if the CIA operates solely under the direction of the National Security Council and/or the President. Correspondingly, have the members of the current congressional subcommittees on intelligence oversight more often than not simply been presented with a fait accompli rather than consulted during the initial decision-making process? I do not think this is at all clear and it should be.

I have indicated my support for a permanent Joint Congressional Committee on Intelligence Oversight which should, in theory, enjoy a more comprehensive oversight capability than has been the case with the current subcommittees in the House and Senate. Given that reality, however, exactly what will that oversight capability include? And more importantly, given the congressional track record on sensitive information leaks, can the security of intelligence information imparted to the oversight committee be guaranteed? These are very serious questions in my mind and I hope that the select committee will include them in its inquiry.

Mr. President, I believe that the need for the creation of a select committee to investigate the Federal intelligence community has been amply documented. I strongly endorse its enactment.

Mr. GOLDWATER. Mr. President, rise in support of Senate Resolution 21 creating a Select Committee to Investigate Intelligence Activities.

At the outset, I want to state that the intelligence community has served the Nation loyally and ably. Moreover, I want to take this opportunity to salute the dedicated, hard working men and women of the intelligence community whose work goes largely unheralded because of the climate in which they must work.

Production of useful intelligence to guide the Nation's policy makers in making decisions relies upon the efforts of thousands of persons who do their work in a painstaking and careful way.

While agent operations are important to the Nation, they constitute a very small proportion of the total intelligence effort. Agent operations have been glamorized in novels and movies. Most of us enjoy this kind of entertainment but the image that emerges is very far from reality.

The truth of the matter is that the production of intelligence requires the painstaking work of many specialists who carefully analyze information from many sources. Most of the work is far from glamorous and very far from James Bond.

Under the political climate now prevailing, I suppose a select committee was inevitable. I would have preferred that the Senate inquire into intelligence activities through the existing committee and subcommittees that have responsibilities for intelligence.

In supporting Senate Resolution 21 I want to make it clear that in no way

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CIA REGULATION LONG OVERDUE

As a former diplomat, I have followed recent news on alleged involvement of the CIA in domestic affairs with special concern.

Clearly, congressional oversight and appropriate regulation of the agency are long overdue. A recent best seller on the subject, "The CIA and the Cult of Intelligence" by Marshall & Marks, the accuracy of which is generally recognized, makes a compelling case in this regard.

There is enough blame to taint all involved, not only the agency itself but recent administrations and especially a pliant and pitiable Congress. Additionally, the agency operates under a vague grant of powers which fails to define what is "domestic" and what is "foreign," let alone providing guidance for what falls in either category when it involves legitimate intelligence operations.

But in the approaching investigations, it is important to keep two things in mind: that a competent intelligence branch is essential to our survival, and that the CIA, with all of its faults, is one of the best, if not the very best, organizations of its kind around.

So, let's not throw the baby out with the bath. Hopefully, in the coming months both our domestic freedom as well as the structure and role of this excellent organization will be strengthened.

Mr. SCHWEICKER. Mr. President, I would like to commend the distinguished majority and minority leaders for their decisive action in moving to establish a select Senate committee to investigate the recent charges involving various organizations within the U.S. intelligence community. I had introduced my own legislation in this area, Senate Resolution 6, cosponsored by my colleague from Wisconsin (Mr. PROXMIRE), and I am pleased that the Senate has decided to move forward with a similar proposal.

I think it is appropriate to emphasize four points in connection with this. First, this Nation vitally needs an effective intelligence service. No one disputes that, and I am confident no one in this body would support any action which would undermine the effectiveness of Government organizations performing legitimate, necessary, intelligence functions. In the 14 years I have served in the House and Senate, I spent 10 years as a member of the Armed Services Committee, both in the House and here in the Senate, and that experience convinced me of the necessity for an effective intelligence organization.

But second, and equally important, it is the responsibility of the Congress to define legitimate intelligence activities, and to establish guidelines which the executive branch must follow in conducting intelligence activities—and then to see that these guidelines are enforced. The intelligence community, like every other sector of our free society, must be subject to the rule of law—and in fact, because of the unique nature of intelligence activities, it is fundamental to the integrity of our free institutions that the intelligence community respect the rule of law.

Unfortunately, the Congress has not been as vigilant in this area as it should have been. Despite nearly 200 legislative proposals, no major legislation regarding our intelligence community has been passed since 1949, when the original CIA charter was amended. In the inter-

vening years, the statutory authority of the CIA has apparently been modified and expanded by a series of secret administrative actions, Executive orders, and National Security Council actions. As a result, the CIA now has a "secret charter" which may be vastly different from the original statute passed by Congress—and even those Members of Congress with oversight responsibilities for CIA cannot say with confidence what is in the secret charter. I hope the select committee will focus a major inquiry in this area, and will untangle the various provisions of the secret charter and insure that our basic intelligence authority is embodied in a new statute, passed by Congress, rather than in a series of secret documents. In a free society, the entire concept of a "secret charter" is an intolerable contradiction in terms and must not be permitted.

Third, there are numerous indications that the intelligence community—and particularly the CIA—has expanded its functions into nonintelligence areas, creating a shadow government, duplicating and even superseding the activities of other Government agencies. I recently disclosed an unclassified, CIA contract proposal, asking American firms to conduct industrial espionage against our NATO allies and others, to determine their future plans in the area of ground transportation. Certainly we have a legitimate Government interest in this area, but it should be pursued openly, by the Department of Transportation or Commerce, rather than covertly by the CIA. And in response to my disclosure, our NATO allies said they would be happy to share information of this nature with our Government and in fact, are now doing so, thus eliminating any need for CIA activity. I hope the select committee will explore intelligence community activities in this area, to determine to what extent a shadow government has in fact been created, pursuing normal Government functions in secret, simply to avoid congressional oversight and accountability.

Finally, I think it should be emphasized that the CIA represents only about 15 percent of the entire U.S. intelligence effort. Recently, this has been the most visible 15 percent, in view of press disclosures, but certainly no responsible congressional evaluation in this area can take place without inquiry into all facets of the U.S. intelligence community. My bill specifically authorized inquiry into all U.S. intelligence agencies, and I would hope the select committee bill adopted today will have similar broad authority.

Mr. MUSKIE. Mr. President, the resolution before the Senate is the product of long and thoughtful concern over the role of intelligence agencies in a democratic society. Nearly 20 years ago, the distinguished majority leader urged the Senate to adopt a related measure to exercise its responsibility for the activities of our Nation's intelligence community.

Since the adoption of the National Security Act, there have been more than 200 attempts to establish separate and broadly based intelligence oversight committees for the Congress.

Today, with the leadership of the distinguished senior Senator from Rhode Island and the esteemed majority leader, and the many other Members of this body who have labored for this change, we can take a vitally significant step by the creation of a Senate Select Committee to Study Government Operations with Respect to Intelligence Activities.

This select committee is similar in many respects to a proposal offered by Senators MANSFIELD and MATHIAS which was referred to the Committee on Government Operations. The Subcommittee on Intergovernmental Relations, which I chair, held hearings on December 9 and 10 on that and other proposals to strengthen congressional oversight of intelligence activities.

While we will continue to explore the long-range congressional needs for a more permanent oversight mechanism, it is essential that we have a select committee study what has gone before us and to measure past activities of our intelligence agencies against the laws which authorized them.

For many years now we have been given constant assurances by the Central Intelligence Agency and other intelligence agencies that they have been forthcoming to the Congress through the appropriate channels such as the present oversight committees. Unfortunately, events of the past few years, and more particularly of the past few weeks, appear to suggest that there is an instinct on the part of these agencies to withhold information from the Congress to protect themselves.

In the past, proposals from the Congress, from scholars and from Presidential task forces have been met with little more than indifference. Certainly public opinion and opinion in the Congress have changed.

In recent years we have seen alarming evidence that the FBI has spied on Congressmen and on domestic political groups. The President has acknowledged that the CIA mistakenly became involved in domestic surveillance. We have had evidence of military agents spying on civilians on behalf of an agency created by Department of Defense directive. The list goes on.

The creation of a select committee to explore these allegations and activities as well as the overall activities and responsibilities of the entire intelligence community represents an objective response by the Senate to difficult and complex circumstances. It is not a call for a witch hunt. It is an assumption of responsibility.

This is an undertaking of the greatest importance. It is one which has the strong support of most of the Members of this body.

It is essential that this select committee begin now to obtain answers to the many questions which have been raised in the short run about the recent disclosures and allegations and in the long run about the authority and functions of all of our intelligence gathering agencies.

The committee should address the question of how we can balance vital national security needs with the public's

the CIA has been asked to play under that law.

In 1970 and 1971, White House aides asked CIA to participate in what was known as the Huston domestic intelligence plan and to provide assistance to a former agency official, E. Howard Hunt, who at the time worked for the President. Again, the question must be raised as to what White House authorization the agency was given to undertake the requested activities. Hunt's aid was cut off only when, in the words of the man who was then chief assistant to the deputy director, it appeared the agency was becoming involved in a "domestic clandestine operation."

In 1971 and 1972, according to Colby, the CIA undertook physical surveillances of five Americans including, apparently, newsman Jack Anderson, "to identify the sources of (news) leaks." This appears to complement the so-called "national security" wiretaps conducted by the FBI at the direction of the Nixon White House from 1969 to 1971. Again, the agency and the White House must make clear the authority under which the CIA conducted such operations.

In March 1974, Colby "terminated the domestic intelligence collection program (begun 7 years earlier) and issued specific guidelines that any collection of counterintelligence information on Americans would only take place abroad and would be initiated only in response to requests from the FBI. . . ." Was this at White House direction? And if not, could a future President reverse such a policy?

The FBI situation is slightly different. There is no information as to how or why former FBI Director J. Edgar Hoover began collecting politically-tantalizing material about congressmen and other public figures. One point is clear, however—he frequently used the information to titillate Presidents, and apparently no Chief Executive or White House aide ever told him to stop. When the so-called "national security" FBI wiretaps were operating, Hoover regularly sent social and political gossip picked up from overheard conversations to Nixon chief of staff, H. R. Haldeman. No objection or order to stop ever came back from the Oval Office.

One other presidential role in these areas needs exploration. Were agency directors ordered by the White House to cover up certain activities when called before congressional committees? Former CIA Director Helms, for example, when questioned by the Senate Foreign Relations Committee in February 1973, was asked directly about CIA participation in a White House plan in 1969 or 1970 to coordinate domestic intelligence activities. Helms said he could not recall—though he knew full well of his activities in 1970 Huston plan discussions. Last week he told senators he misunderstood the question. At a May 1973 hearing, Helms told senators he had no idea that Hunt, prior to public mention of the Ellsberg break in, "was going to be involved in any domestic activity." Of course, he did—that was why aid to Hunt stopped. Former President Nixon and his aides kept a close watch over any congressional testimony that could implicate them or their assistants in Watergate. Was Helms told to mislead?

If current congressional efforts to harness the intelligence community break up as a result of lack of White House cooperation, additional allegations of past wrongdoings are bound to be made because the climate both inside and outside the secret security services has changed. Strong internal agency leadership has gone. And on Capitol Hill, the old staunch defenders of intelligence activities are either gone or powerless.

For those interested in protecting the legitimate functions of the intelligence community, the future looks grim—indeed black if the Ford White House fails to see that far more is needed than a narrow blue-ribbon commission studying a very narrow set of allegations.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield for 2 minutes?

Mr. PASTORE. I yield.

JOINT REFERRAL OF CERTAIN COMMUNICATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication from the Federal Energy Administration transmitting a study under Public Law 93-391, be referred jointly to the Committees on Interior and Insular Affairs, Public Works, Commerce and Finance, and that a second communication received this day from the Council on Environmental Quality on Land Use, prepared as a part of its annual report, be referred jointly to the Committees on Interior and Insular Affairs, Public Works, Commerce, Agriculture and Forestry.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON COMMERCE TO FILE REPORTS UNTIL MIDNIGHT TONIGHT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to file reports until midnight tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE TO STUDY GOVERNMENTAL INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 21) to establish a Select Committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous order, the Senate will now proceed to vote on the resolution, as amended. On this question the yeas and nays have been ordered, and clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. YOUNG (after having voted in the negative). On this vote I have a pair with the junior Senator from Washington (Mr. JACKSON). If he were present, he would vote "Yea." If I were permitted to vote, I would vote "Nay." I therefore withdraw my vote.

Mr. GRIFFIN (after having voted in the affirmative). On this vote I have a pair with the Senator from Ohio (Mr. TAFT). If he were present, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. INOUE) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

I further announce that the Senator from Ohio (Mr. TAFT) is absent to attend a funeral.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. MATHIAS) would each vote "yea."

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—82

| | | |
|----------|-----------------|-------------|
| Abourezk | Eastland | Metcalf |
| Allen | Fannin | Mondale |
| Baker | Fong | Montoya |
| Bartlett | Ford | Morgan |
| Bayh | Garn | Moss |
| Beall | Glenn | Muskie |
| Bellmon | Goldwater | Nelson |
| Bentsen | Gravel | Nunn |
| Biden | Hansen | Packwood |
| Brock | Hart, Gary W. | Pastore |
| Brooke | Hart, Philip A. | Pearson |
| Buckley | Haskell | Percy |
| Bumpers | Hatfield | Proxmire |
| Burdick | Hathaway | Randolph |
| Byrd | Hollings | Ribicoff |
| | Harry F., Jr. | Roth |
| | Hruska | Schweiker |
| | Byrd, Robert C. | Scott, Hugh |
| | Cannon | Sparkman |
| | Case | Stennis |
| | Chiles | Stevens |
| | Church | Stevenson |
| | Clark | Stone |
| | Cranston | Symington |
| | Culver | Tower |
| | Curtis | Welcker |
| | Dole | Williams |
| | Domenici | |
| | Eagleton | |
| | | McGovern |
| | | McIntyre |

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do I agree to the criticism that has been made concerning our existing committees. I know that our colleagues on these committees have done their utmost to carry out the trust of the Senate.

Because the attacks on the intelligence community persist, and because part of that attack is directed to the existing committees, I am supporting Senate Resolution 21 as a way to clear the air and set the record.

When the distinguished senior Senator from Arkansas was chairman of the Permanent Investigations Subcommittee, I believe he established the procedure of having closed hearings before open hearings were held. If I remember correctly, the distinguished Senator from Arkansas established this procedure to protect both his subcommittee and witnesses from unnecessary embarrassment.

It is my hope that the Senate select committee will proceed in a careful and deliberate manner. I believe the committee's work, at least initially, should be in camera.

Most of the Senators and staff, who are going to serve on the committee, are not thoroughly familiar with the organization and functions of the intelligence community. Before any decision on open hearings is made, I would hope the members and staff would have ample opportunity to do some homework.

The Senators and staff who serve on the select committee are going to have knowledge of a lot of matters which, if improperly handled, can cause our Nation harm.

It is important that the select committee establish sensible rules in dealing with the intelligence community. In other words, let us get the information we need to do the job but no more.

There is a reason over and above security considerations for the select committee to hold its meetings in camera: The basic American idea of protecting professional and personal reputations unless unlawful or unethical acts are involved.

Although Senate Resolution 21 does not specifically make this point, I believe the work of the select committee should have as its focus the National Security Act of 1947. It is that act and the directives issued under its provisions which have created the intelligence community as we know it today.

Using the act of 1947 as a frame of reference, I believe the select committee should have two prime objectives:

First, to determine whether or not the act of 1947 needs revision.

Second, to determine whether or not there have been illegal activities within the intelligence community.

If there have been illegal activities, then I believe the committee must determine whether these illegal activities constitute a pattern or are merely aberrations.

Sometimes what may appear to be an illegal activity may turn out to be something quite different.

Ultimately, the select committee will make its findings and recommendations known to the Senate. It would be a tragedy for the Nation should this document

reflect anything but the best of the Senate.

If surgery is required, let it be performed only after the most careful diagnosis. And, if there is surgery, let us use a very sharp scalpel—not a meat ax.

Mr. DOMENICI. Mr. President, the Central Intelligence Agency is charged with conducting the kinds of intelligence activities that are absolutely essential to preserve our free and open democratic society in the real world in which we live. I say this because example after example has shown that our Nation must remain ever-vigilant against the publicly stated desires of other governments to destroy our free existence.

The charter establishing the CIA limited it to foreign intelligence gathering. Allegations have been made that the charter has been exceeded on occasion. If correct, then much of the blame for these excesses lies with the Congress for failure to discharge its duty of congressional oversight. Recognizing that our Nation must have an intelligence gathering capacity that Congress has failed in its oversight responsibility, the question becomes: Is the creation of a select committee to investigate our intelligence operations, with all its extensive press coverage and certain leaks, the wisest method to explore and correct past wrongs and prevent future abuses? I have grave doubts.

There are many possible alternatives to such a suggested select committee. One alternative that comes immediately to mind is the creation of a permanent joint committee to oversee intelligence gathering by our Nation's agencies. Such an alternative has been offered in the form of S. 327, which I have cosponsored and intend to support.

However, the realities of our current situation dictate my reluctant support of Senate Resolution 21, with the strong reservations mentioned previously and an admonition to my colleagues that we must not breach our national security by revealing matters of truly critical importance. These hearings must not be characterized by a veritable flood of leaks and publicity stunts that will permanently jeopardize the effectiveness of our intelligence operations which serve a very legitimate purpose. We must be on our guard that such legislation with a commendable purpose is not allowed through error or excess, to undermine our country's security.

Mr. PACKWOOD. Mr. President, yesterday's Washington Post included an editorial by Walter Pincus entitled "Spies' and Presidents." In speaking of the investigation before a select committee to study the Federal intelligence community, Mr. Pincus declares that:

No select Senate committee—not even a joint congressional committee—will get to the bottom of the U.S. intelligence community's problems without the full and active support of President Ford and his staff. This is because, he goes on to say, "The inquiry into intelligence activities must inevitably find out what past Presidents authorized the agencies to do."

Because of its particular relevance to the bill we will vote on today, I am bringing this article to the attention of my

colleagues. Mr. President, I ask unanimous consent that the text of Mr. Pincus' editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"SPIES" AND PRESIDENTS
(By Walter Pincus)

No select Senate committee—not even a joint congressional committee—will get to the bottom of the U.S. intelligence community's problems without the full and active support of President Ford and his staff. The reason is simple: such an inquiry must inevitably end up trying to find out what past Presidents and their staffs authorized these agencies to do; what formal groups, such as the 40 Committee, approved; and what steps, if any, the White House ever took to stop abuses of authority or projects that were illegal on their face.

Current newspaper allegations about the Central Intelligence Agency's domestic activities and the CIA partial confirmation plus admission that the Federal Bureau of Investigation has collected files on members of Congress illustrate the point.

Former CIA Director Richard Helms tied the start of that agency's domestic activities in the late 1960s to "the express concern of the President" (Lyndon Johnson), although he did not detail how this "concern" was transmitted to him. The present CIA Director, William Colby, told a Senate subcommittee that, under Helms, the agency on Aug. 15, 1967 established a unit within its counterintelligence department "to look into the possibility of foreign links to American dissident elements." Two weeks later, Colby went on, the executive director of the President's National Advisory Commission on Civil Disorder asked how the CIA might assist that inquiry.

In setting up the commission, President Johnson's executive order had called upon all government agencies to cooperate. Colby never stated, in his prepared text, why or under what authority Helms had established the unit prior to receipt of the commission's request for assistance. Colby did add, however, that later the same year "the CIA activity became part of an interagency program, in support of the national commission (on disorder), among others."

What that program was and who the "others" were who received its output were not spelled out. The only known group established at that time was one intended to work out a plan for handling disorders in Washington. Former participants on that interagency panel from the Pentagon and Justice Department don't remember CIA having been a party. Colby's later disclosure—that at this time the agency's Office of Security "inserted 10 agents into dissident organizations operating in the Washington, D.C. area . . . to gather information relating to plans for demonstrations . . . that might endanger CIA personnel, facilities and information"—parallels what this interagency group did. Whatever the facts were, only information from the White House tracing establishment of such a group could shed light on how the CIA became a participant.

In 1969, the CIA was asked by the White House to undertake surveillance of the President's brother, Donald Nixon, who, according to documents from the House impeachment inquiry, was moving to Las Vegas where it was feared he "would come into contact with criminal elements." The agency refused, but the Secret Service Act, which requires government agencies to cooperate in the protection of the President and his family, may have been the source of other such requests. Only the White House can disclose what role